Agenda Item 8 Meeting of 12/2/15

ORDINANCE 15-13735

AN ORDINANCE RELATING TO THE NAPLES SAILING AND YACHT CLUB MOORING FACILITIES REZONE PETITION 15-R5; REZONING APPROXIMATELY 1.692 ACRES FROM PD, PLANNED DEVELOPMENT, TO PD, PLANNED DEVELOPMENT, IN ORDER TO MODIFY THE DEVELOPMENT STANDARDS APPLICABLE TO THE NAPLES SAILING AND YACHT CLUB MOORING FACILITIES TO ADD 13 PILINGS AS A PERMITTED USE AND TO DELETE A DOCK CONTAINING 20 SLIPS AS A PERMITTED USE, FOR PROPERTY OWNED BY NAPLES SAILING AND YACHT CLUB, INC., A FLORIDA NOT-FOR-PROFIT CORPORATION, LOCATED AT 896 RIVER POINT DRIVE, MORE FULLY DESCRIBED HEREIN; APPROVING REZONE PETITION 15-R5; PROVIDING A SEVERABILITY CLAUSE, A REPEALER PROVISION AND AN EFFECTIVE DATE.

- WHEREAS, Naples Sailing and Yacht Club, Inc., a Florida not-for-profit corporation, owner of the property located at 895 River Point Drive, has petitioned to rezone approximately 1.692 acres from PD Planned Development to PD Planned Development to modify the development standards applicable to the Naples Sailing and Yacht Club mooring facilities to add 13 pilings as a permitted use and to delete a dock containing 20 slips as a permitted use; and
- WHEREAS, John M. Passidomo, Esq., Cheffy Passidomo, has been authorized by the owner as agent for this petition; and
- WHEREAS, following an advertised public hearing on October 14, 2015, the Planning Advisory Board considered the public input, staff recommendations and criteria in the Code and has recommended by a vote of 6 to 0 that Rezone Petition 15–R5 be approved; and
- whereas, after considering the recommendation of the Planning Advisory Board and City staff, following a public hearing on the subject, and providing the petitioner, staff and the public an opportunity to present testimony and evidence, the City Council has determined that the petition should be approved;

NOW, THEREFORE, BE IT ORDAINED BY THE COUNCIL OF THE CITY OF NAPLES, FLORIDA:

Section 1. That the City Council hereby approves rezoning approximately 1.692 acres from PD, Planned Development, to PD, Planned Development, to modify the development standards applicable to the Naples Sailing and Yacht Club mooring facilities to add 13 pilings as a permitted use and to delete a dock containing 20 slips as a permitted use, for property owned by Naples Sailing and Yacht Club, Inc., a Florida not-for-profit corporation and located at 896 River Point Drive, more fully described as:

Lots 8, 9, 10 and 11, BEAUMARIS REPLAT, according to the plat thereof recorded in Plat Book 4, page 107, of the Public Records of Collier County, Florida and approximately 165,982 square feet of

submerged land more adjacent sovereignty the Sovereignty described in particularly Submerged Land Lease recorded on July 22, 2011 in Official Records Book 4703, at page 3371, et. seq. of the Public Records of Collier County, Florida as a parcel of sovereignty submerged lands in Sections 03 and 10, Township 50 South, Range 25 East, in Gordon River and Naples Bay, Collier County, containing 165, 982 square feet, more or less, as is more particularly described and shown on Attachment A, dated May 24, 2011 (a copy of which is attached hereto and incorporated herein by this reference as "Exhibit A").

- Section 2. That Rezone Petition 15-R5 is hereby approved.
- Section 3. That the project shall be developed in compliance with the Planned Development Document for Naples Sailing and Yacht Club dated September 8, 2015, prepared by Cheffy Passidomo, a copy of which is attached hereto and incorporated herein by this reference as Exhibit "B" and Florida Department of Environmental Protection Permit No. 11-0165611-005.
- Section 4. Disclaimer & Permit Condition (Applicable only if federal or state permits are required): Issuance of a development permit by the City does not create any right to obtain a permit from a State or Federal agency and does not create any liability on the part of the City for issuance of the permit if the applicant fails to obtain requisite approvals or fulfill the obligations imposed by a State or Federal agency or undertakes actions that result in a violation of State or Federal law. If applicable, all other State or Federal permits must be obtained before commencement of the project.
- Section 5. That if any word, phrase, clause, subsection or section of this ordinance is for any reason held unconstitutional or invalid, the invalidity thereof shall not affect the validity of any remaining portions of this ordinance. However, if any word, phrase, clause, subsection or section is determined to be an unreasonable condition affecting the overall development plan contained herein, it shall not be severed.
- Section 6. That all sections or parts of sections of the Code of Ordinances, all ordinances or parts of ordinances, and all resolutions or parts of resolutions in conflict herewith, be and the same are hereby repealed to the extent of such conflict.
- Section 7. This ordinance shall take effect immediately upon adoption at second reading.

 FIRST READING DECLARED THE 18TH DAY OF NOVEMBER, 2015.

Page 3

PASSED AND ADOPTED AT SECOND READING AND PUBLIC HEARING IN OPEN AND REGULAR SESSION OF THE CITY COUNCIL OF THE CITY OF NAPLES, FLORIDA THIS 2^{ND} DAY OF DECEMBER, 2015.

Attest:

Patricia L. Rambosk, City Clerk

John F. Sorey III, Mayor

Approved as to form and legality:

Robert D. Pritt, City Attorney
M:\REF\COUNCIL\ORD\2015\15-13735

Date filed with City Clerk: 12-2-15

Exhibit A

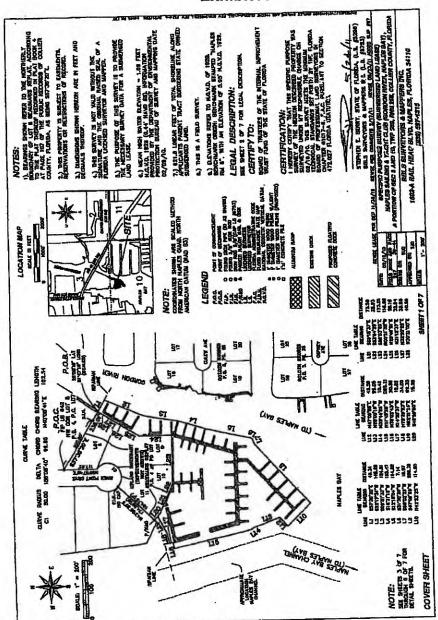




Exhibit B

PLANNED DEVELOPMENT DOCUMENT FOR

NAPLES SAILING AND YACHT CLUB

Date of Submittal: September 8,

2015

Prepared by: Cheffy Passidomo

TABLE OF CONTENTS

		<u>Page</u>
Section I	Legal Description	7
Section II	Development Criteria and Standards	8-10
Section III	Water and Sewer Adequacy and Availability	11
Section IV	Basic Water Management Strategy	12
Section V	Public Access Easements	13
Section VI	Hurricane Protection Pilings and Deletion of Dockage for 20 Slips	14

SECTION I

LEGAL DESCRIPTION

Lots 8, 9, 10 and 11, BEAUMARIS REPLAT, according to plat thereof recorded in Plat Book 4, page 107, of the Public Records of Collier County, Florida (the "Upland Parcel") and approximately 165,982 square feet, more or less, of existing sovereignty submerged land immediately adjacent to the Upland Parcel (the "Sovereignty Submerged Land Lease Parcel") (collectively, the "Upland Parcel" and the "Sovereignty Submerged Land Lease Parcel" are referred to herein as the Property").

Page 8

Ordinance 15-13735

SECTION II

DEVELOPMENT CRITERIA AND STANDARDS

Purpose.

This district provides for a private yacht and sailing club.

Uses permitted.

No building or structure, or part thereof, shall be erected, altered or used, or land or water used, in whole or in part, in this district, for other than the following:

- (1) Yacht or sailing clubs, including, without limitation, dining facilities, cocktail lounges, dancing or staged entertainment, meeting rooms, and banquet facilities.
- (2) Marinas with the number of boat slips permitted on the Sovereignty Submerged Land Parcel determined under the City of Naples Marina Siting Criteria. Incidental loading and unloading of marine supplies is permitted provided it is accessory and subordinate to the principal use.
- (3) Accessory uses and structures which are incidental to and customarily associated with the permitted uses in the district.
- (4) (As depicted in the diagrams attached hereto, moored vessels will not encroach upon the channel. It is hereby understood that further extensions in a southerly direction will not be permitted).

Conditional uses.

There are no conditional uses in this district.

Minimum lot area.

Minimum lot area in this district is 10,000 square feet.

Minimum lot width.

Minimum lot width in this district is 65 feet.

Minimum yards required.

Minimum yards in this district are as follows:

(1) Front yard: 20 feet, six feet of which shall be landscaped in accordance with the requirements of Chapter 8 (section 8-2,] Landscaping Requirements, of the Naples Comprehensive Development Code (the "Code").

- (2) Side yard: Buildings may be placed either on the side lot line or a minimum of ten feet from it, except when the adjoining lot is in a zone other than C2-A with a different side yard requirement, in which case a minimum side yard of ten feet shall be provided.
- (3) Rear yard: No rear yard is required.

Minimum floor area.

Minimum floor area in this district is 1,000 square feet per building on the ground floor.

Maximum height.

Maximum height in this district shall be limited to two stories and 42 feet, measured from the first floor FEMA elevation to the peak of the roof or the highest point of any appurtenance attached to the roof.

Minimum off-street parking.

Minimum off-street parking in the district shall be provided as follows:

- (1) One space per 200 feet of gross floor area devoted to food or beverage preparation, service and consumption areas.
- (2) One space per 300 feet of gross floor area devoted to other club facilities and uses.
- (3) One space per four wet slips.

A credit of one parking space shall nonetheless be applied where the Property provides a bicycle rack in an accessible location. A credit of five parking spaces shall nonetheless be applied where the Property provides public access to Naples Bay as and to the extent provided in this Planned Development Document, and the accompanying Site Plan and the Landscape Plan, adopted by Ordinance 02-9907, prepared by Goetz & Stropes, dated 09/09/02, a copy of which is on file in the City Clerk's Office.

Maximum lot coverage by all buildings.

Maximum lot coverage by all buildings in this district is as follows:

(1) Marinas: 50 percent.

(2) All other buildings: 40 percent.

Minimum Landscaping.

In addition to the parking, vehicular use and front yard setback area landscaping requirements, all areas not improved for parking, per city ordinance requirements, or occupied by a structure, paved walkway or the like shall be landscaped in accordance with the requirements of the Code.

Minimum Signage.

All signage shall be in accordance with the Code.

SECTION III

WATER AND SEWER ADEQUACY AND AVAILABILITY

Water and sewer service for the project is available and will be provided by the City of Naples in accordance with its adequate public facilities criteria. The Property owner shall be responsible for the construction and cost of the water and sewer facilities within the project.

SECTION IV

BASIC WATER MANAGEMENT STRATEGY

Storm runoff will be attenuated on site by means of underground storage facilities, such as vaults, tanks, piping and other customary methods, or, where practicable, by means of above ground retention areas, swales and holding ponds, in accordance with South Florida Water Management District criteria. Storm water quality pretreatment will be provided on site via best management practices in accordance with South Florida Water Management District criteria.

SECTION V

PUBLIC ACCESS EASEMENTS

On or before issuance of a certificate of occupancy for the clubhouse facilities, Owner shall execute, deliver and record non-exclusive Public Access Easements in favor of the City of Naples along the northern and western perimeters of the Property for use during daylight hours with dimensions and at locations depicted on the Site Plan and Landscape Plan which accompany this Planned Development Document.

SECTION VI

HURRICANE PROTECTION PILINGS AND DELETION OF DOCKAGE FOR 20 SLIPS

Thirteen (13) pilings for added hurricane protection and other improvements as authorized under attached Florida Department of Environmental Protection Resource Permit No. 11-0165611-005 (the "Environmental Resource Permit") (Schedule A) are a permitted use on the Property and (ii) dockage for twenty (20) slips at and adjacent to the southern prolongation of the Property as depicted on the attached previously approved Site Plan (the "20 Boat Slips") (Schedule B) are deleted as a permitted use on the Property.



Florida Department of Environmental Protection

South District ()ffice P.O. Box 2549 Fort Myers, FL 33902-2549 Rick Scott Governor

Jennifer Carroll
Lt. Governor

Herschel T. Vinyard Jr. Secretary

VIA ELECTRONIC MAIL

Permittee/Authorized Entity: Naples Sailing and Yacht Club 896 River Point Drive Naples, FL 34102 gm@thensyc.com

Dredging in Selected Locations at the Naples Sailing and Yacht Club

Authorized Agent: Ken Dabrowski 6560 Highcroft Drive Naples, FL 34119 ken@aip4.com

Environmental Resource Permit

State-owned Submerged Lands Authorization - Granted

U.S. Army Corps of Engineers Authorization -Separate Corps
Authorization Required

Permit No.: 11-0165611-005 Lease File No.: 110546725

Permit Issuance Date: February 22, 2013 Permit Construction Phase Expiration Date: February 22, 2018

Consolidated Environmental Resource Permit and State-owned Submerged Lands Authorization

Permittee: Naples Sailing and Yacht Club Permit No: 11-0165611-005

PROJECT LOCATION

The activities authorized by this Permit and state-owned submerged lands authorization are located at 896 River Point Drive, Naples, in Section 03, Township 50 South, Range 25 East, Collier County, at latitude 26.13801821/longitude -81.78872687.

AUTHORIZATIONS

Project Description

The permittee is authorized to dredge a total of approximately 1.33 acres (57,833 square feet) of sovereign submerged lands to a depth of no more than -5 feet Mean Low Water (MLW) in several locations at the Naples Sailing and Yacht Club; construct an extension (approximately 96 square feet) on an existing dock; install 13 new pilings; remove and then replace existing pilings as needed to facilitate dredging activities in Naples Bay, Class II waters, and to perform other activities as described below:

A. Dredge selected locations:

- Approximately 2,075 square feet as designated in phase 1A to a depth of -5 feet MLW, and remove approximately 19 cubic yards of material.
- Approximately 4,333 square feet as designated in phase 1B to a depth of -5 feet MLW, and remove approximately 48 cubic yards of material.
- Approximately 8,010 square feet as designated in phase 2 to a depth of -5 feet MLW, and remove approximately 297 cubic yards of material.
- Approximately 10,000 square feet as designated in phase 3 (Section 3A) to a depth of -5 feet MLW, and remove approximately 278 cubic yards of material.
- Approximately 1,300 square feet as designated in phase 3 (Section 3B) to a depth of -5 feet MLW, and remove approximately 10 cubic yards of material.
- Approximately 11,250 square feet as designated in phase 3 (Section 3C) to a depth of -5 feet MLW, and remove approximately 312 cubic yards of material.
- Approximately 8,580 square feet as designated in phase 3 (Section 3D) to a depth of -5 feet MLW, and remove approximately 191 cubic yards of material.
- Approximately 5,085 square feet as designated in phase 4 (Section 4A) to a depth of -4 feet MI.W, and remove approximately 132 cubic yards of material.

- Approximately 7,200 square feet as designated in phase 4 (Section 4B) to a depth of -4 feet MLW, and remove approximately 160 cubic yards of material.
- B. Construct an extension of approximately 96 square feet on an existing dock located in the southwest corner of the marina as identified on Exhibit 3.
- C. Install 13 new pilings to be aligned east to west along the existing southernmost dock structure as identified on Fixhibit 4.
- Remove and replace existing pilings as needed to facilitate proposed dredging activities.

Authorized activities are depicted on the attached drawings.

The project described above may be conducted only in accordance with the terms, conditions and attachments contained in this permit. The issuance of this permit does not infer, nor guarantee, nor imply that future permits or modifications will be granted by the Department.

Please be advised that this permit does not constitute the issuance of a NPDES Stormwater Permit or acceptance of an NPDES Stormwater Pollution Prevention Plan. For additional information regarding this matter please contact the NPDES Stormwater Notices Center toll free at (866) 336-6312 or Department personnel in Tallahassee at (850) 245-7522.

Sovereignty Submerged Lands Authorization

The activity is located on submerged lands owned by the State of Florida. It therefore also requires authorization from the Board of Trustees of the Internal Improvement Trust Fund (Board of Trustees), pursuant to Article X, Section 11 of the Florida Constitution, and Sections 253.002 Florida Statutes (F.S.) and Chapter 258, F.S.

As staff to the Board of Trustees, the Department has determined that the activity qualifies for a Letter of Consent, as long as the work performed is located within the boundaries as described herein and is consistent with the terms and conditions herein.

Federal Authorization

A copy of this permit has been sent to the U.S. Army Corps of Engineers (USACE). The USACE may require a separate permit. Failure to obtain any required federal permits prior to construction could subject you to enforcement action by that agency.

Coastal Zone Management

This permit also constitutes a finding of consistency with Florida's Coastal Zone Management Program, as required by Section 307 of the Coastal Management Act.

Permittee: Naples Sailing and Yacht Club Permit No: 11-0165611-005 Page 3 of 16

Water Quality Certification

This permit constitutes certification of compliance with state water quality standards under Section 401 of the Clean Water Act, 33 U.S.C. 1341.

Other Authorizations

You are advised that authorizations or permits for this project may be required by other federal, state or local entities including but not limited to local governments and homeowner's associations. This permit does not relieve you from the requirements to obtain all other required permits or authorizations.

In addition, you are advised that your project may require additional authorizations or permits from the municipality/county in which the project is located. Please be sure to contact the local county building and environmental department to obtain these required authorizations.

PERMIT/SOVEREIGNTY SUBMERGED LANDS CONDITIONS

The activities described herein must be conducted in accordance with:

- The Specific Conditions
- The General Conditions
- The General Conditions for Sovereign Submerged Lands Authorization
- The limits, conditions and locations of work shown in the attached drawings
- The term limits of this authorization

You are advised to read and understand these conditions and drawings prior to commencing the authorized activities, and to ensure the work is conducted in conformance with all the terms, conditions, and drawings. If you are utilizing a contractor, the contractor also should read and understand these conditions and drawings prior to commencing the authorized activities. Failure to comply with these conditions, including any mitigation requirements, shall constitute grounds for revocation of the Permit and appropriate enforcement action by the Department.

Operation of the facility is not authorized except when determined to be in conformance with all applicable rules and this permit/certification/authorization and sovereignty submerged lands authorization, as specifically described above.

SPECIFIC CONDITIONS - CONSTRUCTION ACTIVITIES

- Any deviation from the specific permit conditions or permit drawings shall not be undertaken without modification of this permit and submittal of the appropriate processing fee.
- 2. If the approved permit drawings conflict with the specific conditions, then the specific conditions shall prevail.

Permittee: Naples Sailing and Yacht Club

Permit No: 11-0165611-005

Page 4 of 16

3. All required submittals such as certifications, monitoring reports, notifications, etc., shall be submitted to the Florida Department of Environmental Protection, South District Office, P.O. Box 2549, Fort Myers, FL 33902-2549. All submittals shall include the project name and indicated permit number when referring to this project.

Note: In the event of an emergency, the permittee should contact the Department by calling (800) 320-0519. During normal business hours, the permittee should call (239) 344-5600.

Prior to the initiation of any work authorized by this permit, floating turbidity screens with weighted skirts that extend to within 1 ft. of the bottom shall be placed around the active construction area. The screens shall be maintained and shall remain in place for the duration of the project construction to ensure that turbidity levels outside the construction area do not exceed the state's water quality standard for turbidity in Class II waters (29 nephelometric turbidity units (NTUs) above background). The permittee shall be responsible for ensuring that turbidity control devices are inspected daily and maintained in good working order so that there is no degradation of the ambient water quality outside of the turbidity screens. All practices shall be in accordance with the guidelines and specifications described in the State of Florida Erosion and Sediment Control Designer and Reviewer Manual, FDOT, FDEP (2007), available on the Department's website at

http://www.dep.state.fl.us/water/nonpoint/docs/erosion/erosion-inspectors-manual.pdf.

- 5. The following measure shall be taken by the permittee whenever turbidity levels within waters of the State surrounding the project site, exceed 29 nephelometric turbidity units (NTUs) above background:
 - a. Immediately cease all work contributing to the water quality violation;
 - Modify the work procedures that were responsible for the violation, and install
 more turbidity containment devices and repair any non-functioning turbidity
 containment devices; and
 - c. Notify the South District Office of the Department, Submerged Lands and Environmental Resources, within 24 hours of the time the violation is first detected.
- All areas to be dredged shall be in accordance with the attached permit drawings and shall not exceed the areas indicated on those drawings. Dredge depths shall not exceed a depth of -5 feet mean low water (MLW).
- 7. This permit does not authorize any dewatering activities. This permit does not authorize any discharge of water or dredged material into the adjacent waters or Naples Bay. This permit does not authorize any mixing zones.

Permittee: Naples Sailing and Yacht Club

Permit No: 11-0165611-005

Page 5 of 16

8. Dredging is to be conducted by an excavator mounted on a 25 foot barge, with a self-contained spoil storage bin. All spoil material shall be properly contained on the construction barge during construction, as well as during transportation to the upland spoil site in a manner that prevents return of the spoil material to Waters of the State. Should dredging equipment or methods differ from that specified above, Permittee shall provide the Department a description of the method and how turbidity controls will be used prior to construction commencement.

- 9. All spoil material shall be transferred to the uplands at the City of Naples Repository on 10th Avenue (the Dredge Spoil Offload Site), where it will be removed from the barge and becomes the property of the City of Naples. All spoil material transfer to the uplands shall occur at the location free of vegetation. Any existing mangroves located along the shoreline adjacent to the Dredge Spoil Offload Site shall not be altered or damaged in any manner from the construction activities. Should the location or disposition of spoil material differ from that specified above, Permittee will contact the Department prior to construction with a description of the new location for disposition of spoil materials.
- 10. Best management practices for erosion and turbidity control, including but not limited to the use of staked hay bales and silt screens, shall be used and maintained to surround the Dredge Spoil Offload Site. The permittee shall be responsible for ensuring that return water from the Dredge Spoil Offload Site does not enter adjacent waters of the State. The permittee is responsible for containing turbidity associated with all work authorized in this permit.
- 11. The permittee shall insure that adequate water depths exist where the spoil material is transferred at the Dredge Spoil Offload Site to the uplands. Adequate depths shall allow a one foot clearance between the deepest draft of the vessel (or barge) and the top of any submerged resources at mean low water.
- Any anchoring done to secure the dredge barge or equipment shall be done in areas where there are no seagrass beds.
- 13. The permittee has indicated that the spoil material will be placed on public property and used for a public purpose, therefore the severed dredge fees will be waived, pursuant to 18-21.011(3)(c)(1). If, however, the permittee changes the use of the severed dredge material, the permittee will be required to pay severance fees at \$2.25 per cubic yard for the spoil that is projected to be produced during the dredging operation. Within 30 days of completion of construction, the permittee shall notify the South District DEP office of the final location of the spoil.
- 14. The project shall comply with applicable State Water Quality Standards, namely:

Rule 62-302.500, F.A.C., Surface Waters: Minimum Criteria, General Criteria; and Rule 62-302.530, F.A.C. – Table: Surface Water Quality Criteria, Class II Waters.

SPECIFIC CONDITIONS - MANATEE CONDITIONS

- 15. All personnel associated with the project shall be instructed about the presence of manatees and manatee speed zones, and the need to avoid collisions with, and injury to manatees. The permittee shall advise all construction personnel that there are civil and criminal penalties for harming, harassing, or killing manatees which are protected under the Marine Mammal Protection Act, the Endangered Species Act, and the Florida Manatee Sanctuary Act.
- 16. All vessels associated with the construction project shall operate at "Idle Speed/No Wake" at all times while in the immediate area and while in water where the draft of the vessel provides less than a four-foot clearance from the bottom. All vessels shall follow routes of deep water whenever possible.
- 17. Siltation or turbidity barriers shall be made of material in which manatees cannot become entangled, shall be properly secured, and shall be regularly monitored to avoid manatee entanglement or entrapment. Barriers shall not impede manatee movement.
- 18. All on-site project personnel are responsible for observing water-related activities for the presence of manatees. All in-water operations, including vessels, shall be shutdown if a manatee comes within 50 feet of the operation. Activities shall not resume until every manatee has moved beyond the 50-foot radius of the project operation, or until 30 minutes has elapsed wherein a manatee has not reappeared within 50 feet of the operation. Animals shall not be herded away or harassed into leaving.
- 19. Any collision with or injury to a manatee shall be reported immediately to the FWC Hotline at 1-888-404-FWCC. Collision and/or injury should also be reported to the U.S. Fish and Wildlife Service in Jacksonville (1-904-731-3336) for north Florida or Vero Beach (1-772-562-3909) for south Florida.
- 20. Temporary signs concerning manatees shall be posted prior to and during all inwater project activities. All signs are to be removed by the permittee upon completion of the project. Awareness signs that have already been approved for this use by the Florida Fish and Wildlife Conservation Commission (FWC) must be used. One sign measuring at least 3 ft. by 4 ft. which reads Caution: Manatee Area must be posted. A second sign measuring at least 8 1/2" by 11" explaining the requirements for "Idle Speed/No Wake" and the shutdown of in-water operations must be posted in a location prominently visible to all personnel engaged in water-related activities. Please see the Florida Fish and Wildlife Conservation Commission website for information on

Permittee: Naples Sailing and Yacht Club

Permit No: 11-0165611-005

Page 7 of 16

how to obtain appropriate signs: http://www.myfwc.com/docs/WildlifeHabitats/Manatee-EducationalSign.pdf.

GENERAL CONDITIONS:

- 1. All activities shall be implemented as set forth in the plans, specifications and performance criteria as approved by this permit. Any deviation from the permitted activity and the conditions for undertaking that activity shall constitute a violation of this permit.
- 2. This permit or a copy thereof, complete with all conditions, attachments, exhibits, and modifications shall be kept at the work site of the permitted activity. The complete permit shall be available for review at the work site upon request by Department of Environmental Protection (Department) staff. The permittee shall require the contractor to review the complete permit prior to commencement of the activity authorized by this permit.
- 3. Activities approved by this permit shall be conducted in a manner which does not cause violations of state water quality standards. The permittee shall implement best management practices for erosion and pollution control to prevent violations of state water quality standards. Temporary erosion control shall be implemented prior to and during construction, and permanent control measures shall be completed within seven (7) days of any construction activity. Turbidity barriers shall be installed and maintained at all locations where the possibility of transferring suspended solids into the receiving water-body exists due to the permitted work. Turbidity barriers shall remain in place at all locations until construction is completed and soils are stabilized and vegetation has been established. Thereafter the permittee shall be responsible for the removal of the barriers. The permittee shall correct any erosion or shoaling that causes adverse impacts to the water resources.
- 4. Water quality data for the water discharged from the permittee's property or into the surface waters of the state shall be submitted to the Department as required by the permit. Analyses shall be performed according to the procedures outlined in the current edition of Standard Methods for the Examination of Water and Wastewater by the American Public Health Association or Methods for Chemical Analyses of Water and Wastes by the U.S. Environmental Protection Agency. If water quality data are required, the permittee shall provide data as required on volumes of water discharged, including total volume discharged during the day of sampling and total monthly volume discharged from the property or into surface waters of the state.
- Department staff must be notified in advance of any proposed construction dewatering. If the dewatering activity is likely to result in offsite discharge or sediment transport into wetlands or other surface waters, a written dewatering plan must either

Permittee: Naples Sailing and Yacht Club

Permit No: 11-0165611-005

Page 8 of 16

have been submitted and approved with the permit application or submitted to the Department as a permit prior to the dewatering event as a permit modification. The permittee is advised that the rules of the Southwest Florida Water Management District state that a water use permit may be required prior to any use exceeding the thresholds in Chapter 40D-2, (F.A.C.).

- 6. Stabilization measures shall be initiated for erosion and sediment control on disturbed areas as soon as practicable in portions of the site where construction activities have temporarily or permanently ceased, but in no case more than seven (7) days after the construction activity in that portion of the site has temporarily or permanently ceased.
- 7. Off site discharges during construction and development shall be made only through the facilities authorized by this permit. Water discharged from the project shall be through structures having a mechanism suitable for regulating upstream stages. Stages may be subject to operation schedules satisfactory to the Department.
- 8. The permittee shall complete construction of all aspects of the surface water management system, including wetland compensation (grading, mulching, planting), water quality treatment features, and discharge control facilities prior to the beneficial occupancy or use of the development being served by this system.
- 9. All surface water management systems shall be operated to conserve water in order to maintain environmental quality and resource protection; to increase the efficiency of transport, application and use; to decrease waste; to minimize unnatural runolf from property and to minimize dewatering of offsite property.
- 10. At least forty-eight (48) hours prior to commencement of the activities authorized by this permit, the permittee shall submit to the Department a written notification of commencement using an "Environmental Resource Permit Construction Commencement" notice (Form No. 62-343.900(3), F.A.C.) indicating the actual start date and the expected completion date. If activities are initiated in phases, then separate notifications of commencement are to be provided for each phase.
- 11. Each phase or independent portion of the permitted system must be completed in accordance with the permitted plans and permit conditions prior to the occupation of the site or operation of the site infrastructure located within the area served by that portion or phase of the system. Each phase or independent portion of the system must be completed in accordance with the permitted plans and permit conditions prior to transfer of responsibility for operation and maintenance of the phase or portion of the system to a local government or other responsible entity.

Permittee: Naples Sailing and Yacht Club Permit No. 11-0165611-005 Page 9 of 16

12. Within thirty (30) days after completion of the permitted activities, the permittee shall submit a written statement of completion and certification by a registered professional engineer or other appropriate individual as authorized by law, utilizing the required "Environmental Resource Permit As-Built Certification by a Registered Professional" (Form No. 62-343.900(5), F.A.C.), and a "Request for Transfer of Environmental Resource Permit Construction Phase to Operation Phase" (Form 62-343.900(7), F.A.C.). Additionally, if deviation from the approved drawings is discovered during the certification process, the certification must be accompanied by a copy of the approved permit drawings with deviations noted. Both the original and revised specifications must be clearly shown. The plans must be clearly labeled as "asbuilt" or "record" drawing. All surveyed dimensions and elevations shall be certified by a registered surveyor. If activities are initiated in phases, then separate statements of completion and certifications must be provided after completion of each phase.

- 13. This permit is valid only for the specific processes, operations and designs indicated on the approved drawings or exhibits submitted in support of the permit application. Any substantial deviation from the approved drawings, exhibits, specifications, or permit conditions, including construction within the total land area but outside the approved project area(s), may constitute grounds for revocation or enforcement action by the Department, unless a modification has been applied for and approved. Examples of substantial deviations include excavation of ponds, ditches or sump areas deeper than shown on the approved plans.
- 14. The operation phase of this permit shall not become effective until the permittee has complied with the requirements of the conditions herein, the Department determines the system to be in compliance with the permitted plans, and the entity approved by the Department accepts responsibility for operation and maintenance of the system. The permit may not be transferred to the operation and maintenance entity approved by the Department until the operation phase of the permit becomes effective. Following inspection and approval of the permitted system by the Department, the permittee shall request transfer of permit to the responsible operation and maintenance entity approved by the Department, if different from the permittee. Until a permit transfer is approved by the Department pursuant to Rule 62-343.110(1)(d), F.A.C., the permittee shall be liable for compliance with the terms of this permit.
- 15. Should any other regulatory agency require changes to the permitted system, the Department shall be notified of the changes prior to implementation so that a determination can be made whether a permit modification is required.
- 16. This permit does not eliminate the necessity to obtain any required federal, state, local and special district authorizations including a determination of the proposed activities' compliance with the applicable comprehensive plan prior to the start of any activity approved by this permit.

Permittee: Naples Sailing and Yacht Club

Permit No: 11-0165611-005

Page 10 of 16

17. This permit does not convey to the permittee or create in the permittee any property right, or any interest in real property, nor does it authorize any entrance upon or activities on property which is not owned or controlled by the permittee, or convey any rights or privileges other than those specified in the permit and Chapter 40D-4 or Chapter 40S-40, F.A.C.

- 18. The permittee is hereby advised that Section 253.77, (F.S.) states that a person may not commence any excavation, construction, or other activity involving the use of sovereign or other lands of the state, the title to which is vested in the Board of Trustees of the Internal Improvement Trust Fund without obtaining the required lease, license, casement, or other form of consent authorizing the proposed use. Therefore, the permittee is responsible for obtaining any necessary authorization from the Board of Trustees prior to commencing activity on sovereignty lands or other state-owned lands.
- 19. The permittee shall hold and save the Department harmless from any and all damages, claims, or liabilities which may arise by reason of the activities by the permit or any use of the permitted system.
- 20. Any delineation of the extent of a wetland or other surface water submitted as part of the permit application, including plans or other supporting documentation, shall not be considered binding unless a specific condition of this permit or a formal determination under Section 373.421(2). F.S., provides otherwise.
- 21. The permittee shall notify the Department in writing within thirty (30) days of any sale, conveyance, or other transfer of ownership or control of the permitted system or the real property at which the permitted system is located. All transfers of a permit are subject to the requirements of Rule 62-343.130, F.A.C. The permittee transferring the permit shall remain liable for corrective actions that may be required as a result of any permit violations prior to such sale, conveyance or other transfer.
- 22. Upon reasonable notice to the permittee, Department authorized staff with proper identification shall have permission to enter, inspect, sample and test the system to insure conformity with Department rules, regulations and conditions of the permits.
- 23. If historical or archaeological artifacts are discovered at any time on the project site, the permittee shall immediately notify the Department and the Florida Department of State, Division of Historical Resources.
- 24. The permittee shall immediately notify the Department in writing of any previously submitted information that is later discovered to be inaccurate.

Permittee: Naples Sailing and Yacht Club

Permit No: 11-0165611-005

Page 11 of 16

GENERAL CONDITIONS FOR SOVEREIGNTY SUBMERGED LANDS AUTHORIZATION

Any use of sovereignty submerged lands is subject to the following general conditions are binding upon the permittee and are enforceable under Chapter 253, F.S., and, as applicable, Chapter 258, F.S.:

- Sovereignty submerged lands may be used only for the specified activity or use. Any
 unauthorized deviation from the specified activity or use and the conditions for undertaking
 that activity or use will constitute a violation. Violation of the authorization shall result in
 suspension or revocation of the permittee's use of the sovereignty submerged land unless cured
 to the satisfaction of the Board of Trustees.
- Authorization under Rule 18-21.005, F.A.C., convey no title to sovereignty submerged land or water column, nor does it constitute recognition or acknowledgment of any other person's title to such land or water.
- 3. Authorizations under Rule 18-21.005, F.A.C., may be modified, suspended or revoked in accordance with its terms or the remedies provided in Sections 253.04, F.S., and Chapter 18-14, F.A.C.
- 4. Structures or activities will be constructed and used to avoid or minimize adverse impacts to resources.
- 5. Construction, use, or operation of the structure or activity will not adversely affect any species which is endangered, threatened or of special concern, as listed in Rules 68A-27.003, 68A-27.004, and 68A-27.005, F.A.C.
- 6. Structures or activities shall not unreasonably interfere with riparian rights. When a court of competent jurisdiction determines that riparian rights have been unlawfully affected, the structure or activity will be modified in accordance with the court's decision.
- Structures or activities will not create a navigational hazard.
- Structures will be maintained in a functional condition and will be repaired or removed if they become dilapidated to such an extent that they are no longer functional.
- Structures or activities will be constructed, operated, and maintained solely for water dependent purposes.

Permittee: Naples Sailing and Yacht Club

Permit No: 11-0165611-005

Page 12 of 16

10. The permittee agrees to indemnify, defend and hold harmless the Board of Trustees and the State of Florida from all claims, actions, lawsuits and demands in any form arising out of the authorization to use sovereignty submerged lands or the permittee's use and construction of structures on sovereignty submerged lands. This duty to indemnify and hold harmless will include any and all liabilities that are associated with the structure or activity including special assessments or taxes that are now or in the future assessed against the structure or activity during the period of the authorization.

- 11. Failure by the Board of Trustees to enforce any violation of a provision of the authorization or waiver by the Board of Trustees of any provision of the authorization will not invalidate the provision not enforced or waived, nor will the failure to enforce or a waiver prevent the Board of Trustees from enforcing the unenforced or waived provision in the event of a violation of that provision.
- 12. Permittee binds itself and its successors and assigns to abide by the provisions and conditions set forth in the authorization. If the permittee or its successors or assigns fails or refuses to comply with the provisions and conditions of the authorization, the authorization may be terminated by the Board of Trustees after written notice to the permittee or its successors or assigns. Upon receipt of such notice, the permittee or its successors or assigns will have thirty (30) days in which to correct the violations. Failure to correct the violations within this period will result in the automatic revocation of this authorization.
- 13. All costs incurred by the Board of Trustees in enforcing the terms and conditions of the authorization will be paid by the permittee. Any notice required by law will be made by certified mail at the address shown on page one of the authorization. The permittee will notify the Board of Trustees in writing of any change of address at least ten days before the change becomes effective.

This authorization does not allow any activity prohibited in a conservation easement or restrictive covenant that prohibits the activity.

NOTICE OF RIGHTS

This action is final and effective on the date filed with the Clerk of the Department unless a petition for an administrative hearing is timely filed under Sections 120.569 and 120.57, F.S., before the deadline for filing a petition. On the filing of a timely and sufficient petition, this action will not be final and effective until further order of the Department. Because the administrative hearing process is designed to formulate final agency action, the filing of a petition means that the Department's final action may be different from the position taken by it in this notice.

Permittee: Naples Sailing and Yacht Club Permit No: 11-0165611-005 Page 13 of 16

Petition for Administrative I learing

A person whose substantial interests are affected by the Department's action may petition for an administrative proceeding (hearing) under Sections 120.569 and 120.57, F.S. Pursuant to Rule 28-106.201, F.A.C., a petition for an administrative hearing must contain the following information:

(a) The name and address of each agency affected and each agency's file or identification number, if known;

(b) The name, address, 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 that the petitioner contends warrant reversal or modification of the agency's proposed action; and

(f) A statement of the specific rules or statutes that the petitioner contends require reversal or modification of the agency's proposed action, including an explanation of how the alleged facts relate to the specific rules or statutes; and

(g) A statement of the relief sought by the petitioner, stating precisely the action that the petitioner wishes the agency to take with respect to the agency's proposed action.

The petition must be filed (received by the Clerk) in the Office of General Counsel of the Department at 3900 Commonwealth Boulevard, Mail Station 35, Tallahassee, Florida 32399-3000. Also, a copy of the petition shall be mailed to the permittee at the address indicated above at the time of filing.

Time Period for Filing a Petition

In accordance with Rule 62-110.106(3), F.A.C., petitions for an administrative hearing by the permittee must be filed with 14 days of receipt of this written notice. Petitions filed by any persons other than the permittee, and other than those entitled to written notice under Section 120.60(3), F.S., must be filed within 14 days of publication of the notice or within 14 days of receipt of the written notice, whichever occurs first. Under Section 120.60(3), F.S., however, any person who has asked the Department for notice of agency action may file a petition with 14 days of receipt of such notice, regardless of the date of publication. The failure to file a petition within the appropriate time period shall constitute a waiver of that person's right to request an administrative determination (hearing) under Sections 120.569 and 120.57, F.S., or to intervene in this proceeding and

Permittee: Naples Sailing and Yacht Club

Permit No: 11-0165611-005

Page 14 of 16

participate as a party to it. Any subsequent intervention (in a proceeding initiated by another party) will be only at the discretion of the presiding officer upon the filing of a motion in compliance with Rule 28-106.205, F.A.C.

Extension of Time

Under Rule 62-110.106(4), F.A.C., a person whose substantial interests are affected by the Department's action may also request an extension of time to file a petition for an administrative hearing. The Department may, for good cause shown, grant the request for an extension of time. Requests for extension of must be filed with the Office of General Counsel of the Department at 3900 Commonwealth Boulevard, Mail Station 35, Tallahassee, Florida 32399-3000, before the applicable deadline for filing a petition for an administrative hearing. A timely request for extension of time shall toll the running of the time period for filing a petition until the request is acted upon.

Mediation

Mediation is not available in this proceeding.

FLAWAC Review

The permittee, or any party within the meaning of Section 373.114(1)(a) or 373.4275, F.S., may also seek appellate review of this order before the Land and Water Adjudicatory Commission under Section 373.114(1) or 373.4275, F.S. Requests for review before the Land and Water Adjudicatory Commission must be filed with the Secretary of the Commission and served on the Department within 20 days from the date when the order is filed with the Clerk of the Department.

Judicial Review

Any party to this action has the right to seek judicial review pursuant to section 120.68, F.S., by filing a Notice of Appeal pursuant to Rules 9.110 and 9.190, Florida Rules of Appellate Procedure, with the Clerk of the Department in the Office of General

[This section intentionally left blank]

Permit Expiration: February 22, 2017

Permittee: Naples Sailing and Yacht Chub

Permit No: 11-0165611-005

Page 15 of 16

Counsel, 3900 Commonwealth Boulevard, M.S. 35, Tallahassee, Florida 32399-3000; and by filing a copy of the Notice of Appeal accompanied by the applicable filing fees with the appropriate District Court of Appeal. The Notice of Appeal must be filed with 30 days from the date this action is filed with the Clerk of the Department.

Executed in Lee County, Florida.

STATE OF FLORIDA DEPARTMENT OF ENVIRONMENTAL PROTECTION

Jon M. Iglehart District Director South District Office

JMI/sbt

Attachments:
Project Drawings, 9 pages
Commencement notice /62-343.900(3)*
As-built certification/62-343.900(5)*
Transfer construction to operation phase/ 62-343.900(7)*
Application for transfer of an ERP permit/62-343.900(8)*
*Can be downloaded at: http://www.dep.state.fl.us/water/wetlands/erp/forms.htm

Copies furnished to:
U.S. Army Corps of Engineers, File # 1982-00522
FWC, Imperiled Species Management Section
Collier County Property Appraiser
Bureau of Public Land Administration, BOT # 110546725

CERTIFICATE OF SERVICE

The undersigned hereby certifies that this permit and authorization to use sovereignty submerged lands, including all copies, were mailed before the close of business on February 22, 2013, to the above listed persons.

FILING AND ACKNOWLEDGMENT

FILED, on this date, under 120.52(7) of the Florida Statutes, with the designated Department Clerk, receipt of which is hereby acknowledged.

Marie Vidrine February 22, 2013

Cherk Date

Permittee: Naples Sailing and Yacht Club Permit No. 11-0165611-005 Page 16 of 16

EXHIBIT 1

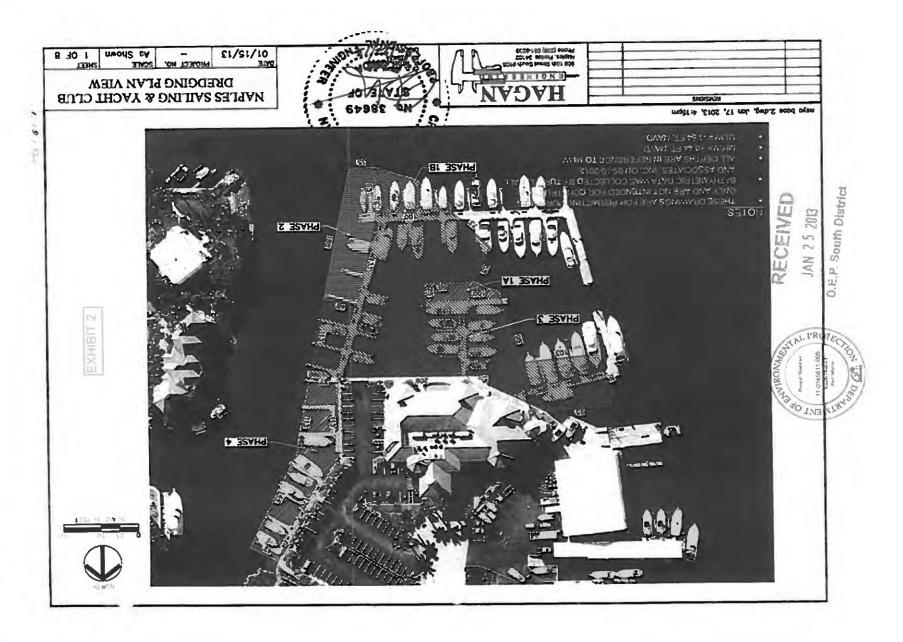
PART 6:

- DREDGE AREAS DESIGNATED IN ATTACHED EXHIBIT 2 DESIGNATED AS
 PHASES 1, 2 AND 3 TO A DEPTH OF (-5) FEET BELOW MEAN LOW WATER
 LEVEL (EXISTING BOTTOM RANGES FROM (-4) TO (-5) FEET BELOW MEAN
 LOW WATER LEVEL-SEE EXHIBIT 2); DREDGE AREA DESIGNATED AS
 PHASE 4 TO A DEPTH OF (-4) FEET BELOW MEAN LOW WATER LEVEL
- DREDGE QUANTITIES ARE DELINEATED ON EXHIBIT 2
- DREDGING WILL BE CONDUCTED BY AN EXCAVATOR MOUNTED ON A 25FT. BARGE
- SPOILS TO BE STORED IN A CONTAINER OF THE BARGE AND HAULED TO THE CITY OF NAPLES REPOSITORY ON 10TH AVENUE FOR TEMPORARY REMOVAL TO LAND AND DRYING
- SPOILS TO FINALLY BE HAULED BY TRUCK TO CITY OF NAPLES LAND REPOSITORY FOR RECLAMATION USE BY THE CITY
- CONTRACTOR WILL INSTALL REQUISITE TURBIDITY BARRIERS TO MAINTAIN TURBIDITY BELOW ALLOWABLE MTU LEVELS
- THERE ARE NO UNDERWATER RESOURCES IN THE AREAS TO BE DREDGED SUCH AS OYSTER BEDS OR SEA GRASSES
- DREDGING WILL COMPLETED IN PHASES OVER THE TERM OF THE PERMIT PERIOD AS FUNDING BECOMES AVAILABLE
- CONSTRUCT SMALL DOCK EXTENSION AS SHOWN ON EXHIBIT 3 TO MITIGATE PRESENT SAFETY CONCERN
- INSTALL (13) NEW PILINGS AS SHOWN ON EXHIBIT 4 SOUTH OF SOUTH DOCK FOR ADDED HURRICANE PROTECTION
- REPLACE EXISTING PILINGS, AS REQUIRED, DUE TO REMOVAL FOR DREDGE BARGE ACCESS

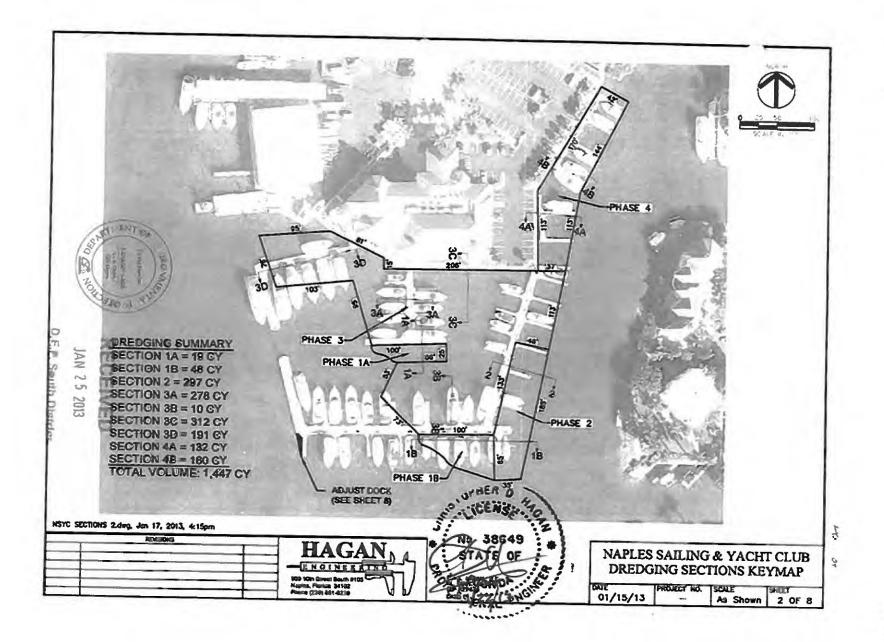


RECEIVED

D.E. c. South Dintrict



Book 141 Page



AREA = 8,010 SF

AVG. DEPTH =1.0 FT VOLUME DREDGE = 297 CY

DREDGE DISTANCE 108'

EXISTING DOCK

RECEIVED

Cash South District

NSYC SECTIONS 2.009, Jan 17, 2013, 4:15pm

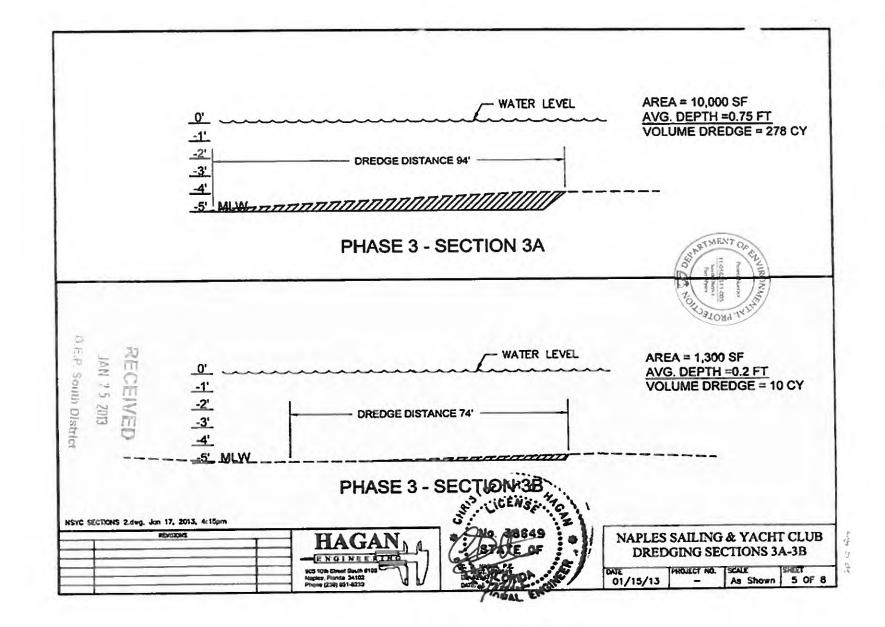
-1' -2' -3' -4'

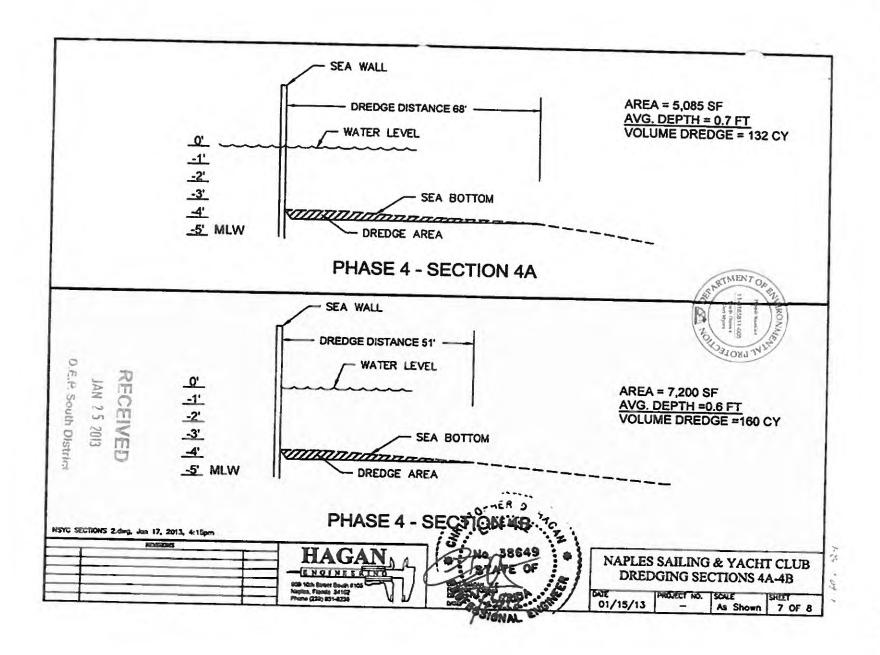


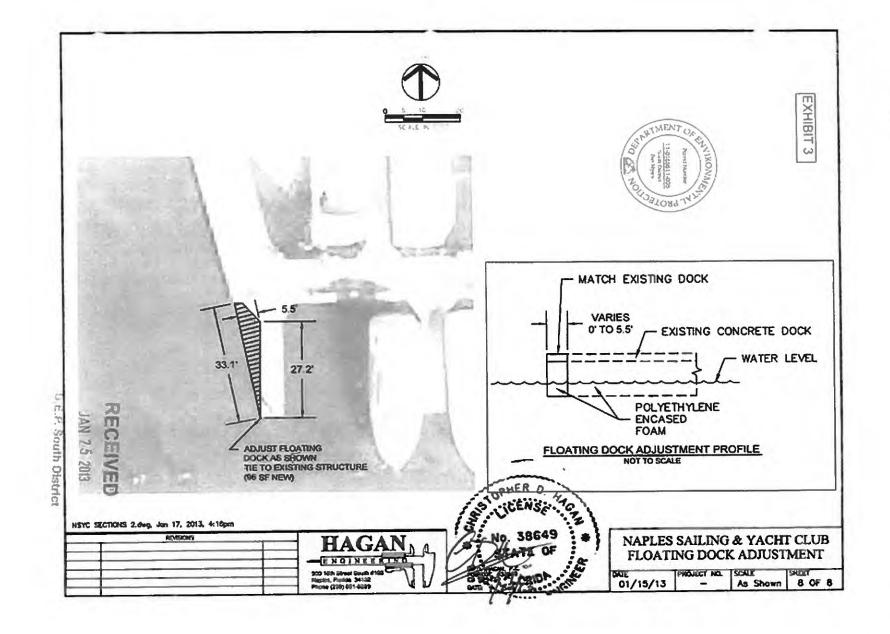
WATER LEVEL

NAPLES SAILING & YACHT CLUB **DREDGING SECTIONS 2**

01/15/13 PROJECT NO. SCALE
-- As Shown 4 OF 8 Book 141 Page



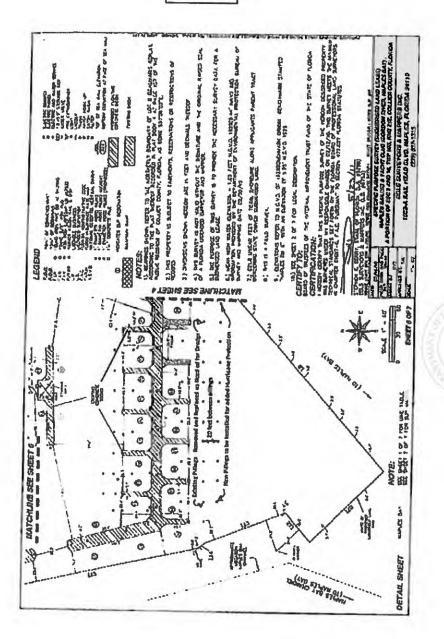




Page 39

Ordinance 15-13735

EXHIBIT 4





JAN 2 5 2013

D.E.P. South District

Attachment \
Page 13 of 18 Pages
SSLI, NO. 110546725

