



DAIS LOG

JUNE 14, 2016 BOC REGULAR MEETING

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HUBBARD'S SEA ADVENTURE – CORPORATE SEARCH

HUBBARD'S SEA ADVENTURES SERVICES AGREEMENT

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Detail by Entity Name

Florida Profit Corporation

HUBBARD'S SEA ADVENTURES, INC.

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Principal Address

%MARK F. HUBBARD
170 JOHNS PASS BOARDWALK
MADEIRA BEACH, FL 33708

Changed: 04/09/2010

Mailing Address

%MARK F. HUBBARD
170 JOHNS PASS BOARDWALK
MADEIRA BEACH, FL 33708

Changed: 04/09/2010

Registered Agent Name & Address

HUBBARD, MARK F.
931 79TH ST SOUTH
SAINT PETERSBURG, FL 33707

Address Changed: 07/22/1999

Officer/Director Detail

Name & Address

Title P

HUBBARD, MARK F.
931 79TH ST SOUTH
SAINT PETERSBURG, FL 33707

Title VPS

HUBBARD, JENNY P.
 931 79TH ST SOUTH
 SAINT PETERSBURG, FL 33707

Annual Reports

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State of Florida, Department of State

SERVICES AGREEMENT

THIS SERVICES AGREEMENT ("Agreement") is made as of this _____ day June, 2016 ("Effective Date"), by and between the City of Madeira Beach, a Florida municipal corporation ("City"), and Hubbard's Sea Adventures, Inc., a Florida corporation, ("Contractor") (individually, "Party," collectively, "Parties").

WITNESSETH:

WHEREAS, the City requested proposals pursuant to Request for Proposal 2016-01 Ferry Service ("RFP") for ferry services; and

WHEREAS, based upon the City's assessment of Contractor's proposal, the City selected the Contractor to provide the Services as defined herein; and

WHEREAS, Contractor represents that it has the experience and expertise to perform the Services as set forth in this Agreement.

NOW, THEREFORE, in consideration of the above recitals, the mutual covenants, agreements, terms and conditions herein, and other good and valuable consideration, the receipt and sufficiency of which is hereby mutually acknowledged, the Parties agree as follows:

1. Definitions.

- A. **"Agreement"** means this Agreement, including all Exhibits, which are expressly incorporated herein by reference, and any amendments thereto.
- B. **"City Confidential Information"** means any City information deemed confidential and/or exempt from Section 119.07, Florida Statutes, and Section 24(a), Article 1 of the Florida Constitution, or other applicable law, and any other information designated in writing by the City as City Confidential Information.
- C. **"Contractor Confidential Information"** means any Contractor information that constitutes a trade secret pursuant to Chapter 688, Florida Statutes, and is designated in this Agreement or in writing as a trade secret by Contractor (unless otherwise determined to be a public record by applicable Florida law). Notwithstanding the foregoing, Contractor Confidential Information does not include information that: (i) becomes public other than as a result of a disclosure by the City in breach of the Agreement; (ii) becomes available to the City on a non-confidential basis from a source other than Contractor, which is not prohibited from disclosing such information by obligation to Contractor; (iii) is known by the City prior to its receipt from Contractor without any obligation or confidentiality with respect thereto; or (iv) is developed by the City independently of any disclosures made by Contractor.
- D. **"Contractor Personnel"** means all employees of Contractor, and all employees of subcontractors of Contractor, including, but not limited to temporary and/or leased employees, who are providing the Services at any time during the project term.
- E. **"Services"** means the work, duties and obligations to be carried out and performed safely by Contractor under this Agreement, as described throughout this Agreement and as specifically described in Exhibit A ("Statement of Work") attached hereto and incorporated herein by reference. As used in this Agreement, Services shall include any component task, subtask, service, or function inherent, necessary, or a customary part of the Services, but not specifically described in this Agreement, and shall include the provision of all standard day-to-day administrative, overhead, and internal expenses, including costs of bonds and insurance as required herein, labor, materials, equipment, safety equipment, products, office supplies, consumables, tools, postage, computer hardware/software, telephone charges, copier usage, fax charges, travel, lodging, and per diem and

all other costs required to perform Services except as otherwise specifically provided in this Agreement.

2. **Conditions Precedent.** This Agreement, and the Parties' rights and obligations herein, are contingent upon and subject to the Contractor securing and/or providing the performance security, if required in Section 3, and the insurance coverage(s) required in Section 13, within ten (10) days of the Effective Date. No Services shall be performed by the Contractor and the City shall not incur any obligations of any type until Contractor satisfies these conditions. Unless waived in writing by the City, in the event the Contractor fails to satisfy the conditions precedent within the time required herein, the Agreement shall be deemed not to have been entered into and shall be null and void.

3. **Services.**

A. **Services.** The City retains Contractor, and Contractor agrees to provide the Services. All Services shall be performed to the satisfaction of the City, and shall be subject to the provisions and terms contained herein and the Exhibits attached hereto.

B. **Services Requiring Prior Approval.** Contractor shall not commence work on any Services requiring prior written authorization in the Statement of Work without approval from the City.

C. **Additional Services.** From the Effective Date and for the duration of the project, the City may elect to have Contractor perform Services that are not specifically described in the Statement of Work attached hereto but are related to the Services ("Additional Services"), in which event Contractor shall perform such Additional Services for the compensation specified in the Statement of Work attached hereto. Contractor shall commence performing the applicable Additional Services promptly upon receipt of written approval as provided herein.

D. **De-scoping of Services.** The City reserves the right, in its sole discretion, to de-scope Services upon written notification to the Contractor by the City. Upon issuance and receipt of the notification, the Contractor and the City shall enter into a written amendment reducing the appropriate Services Fee for the impacted Services by a sum equal to the amount associated with the de-scoped Services as defined in the payment schedule in this Agreement, if applicable, or as determined by mutual written consent of both Parties based upon the scope of work performed prior to issuance of notification.

E. **Independent Contractor Status and Compliance with the Immigration Reform and Control Act.** Contractor is and shall remain an independent contractor and is neither agent, employee, partner, nor joint venturer of City. Contractor acknowledges that it is responsible for complying with the provisions of the Immigration Reform and Control Act of 1986 located at 8 U.S.C. 1324, et seq, and regulations relating thereto, as either may be amended from time to time. Failure to comply with the above provisions shall be considered a material breach of the Agreement.

F. **Non-Exclusive Services.** This is a non-exclusive Agreement. During the term of this Agreement, and any extensions thereof, the City reserves the right to contract for another provider for similar services as it determines necessary in its sole discretion.

G. **Project Monitoring.** During the term of the Agreement, Contractor shall cooperate with the City, either directly or through its representatives, in monitoring Contractor's progress and performance of this Agreement.

4. **Term of Agreement.**

A. **Initial Term.** The term of this Agreement shall commence on August 1, 2016 and shall remain in full force and effect for one (1) year.

B. Term Extension. The Parties may extend the term of this Agreement for five (5) additional one (1) year period(s) pursuant to the same terms, conditions, and pricing set forth in the Agreement by mutually executing an amendment to this Agreement, as provided herein.

5. Compensation and Method of Payment.

A. Services Fee. As total compensation for the Services, the City shall pay the Contractor the sums as provided in this Section 5, pursuant to the terms and conditions as provided in this Agreement for ferry services. It is acknowledged and agreed by Contractor that this compensation constitutes a limitation upon City's obligation to compensate Contractor for such Services required by this Agreement, but does not constitute a limitation upon Contractor's obligation to perform all of the Services required by this Agreement.

B. The City agrees to pay the Contractor on a percentage for the ferry services as set out in Exhibit B, payable upon submittal of an invoice as required herein.

C. The Contractor shall have the non-exclusive right to provide ferry services to the public at the following locations:

Madeira Beach City Centre
Madeira Beach Marina

D. Taxes. Contractor acknowledges that the City is not subject to any state or federal sales, use, transportation and certain excise taxes.

6. Personnel.

A. Qualified Personnel. Contractor agrees that each person performing Services in connection with this Agreement shall have the qualifications and shall fulfill the requirements set forth in this Agreement.

B. Approval and Replacement of Personnel. The City shall have the right to approve all Contractor Personnel assigned to provide the Services, which approval shall not be unreasonably withheld. Prior to commencing the Services, the Contractor shall provide at least ten (10) days written notice of the names and qualifications of the Contractor Personnel assigned to perform Services pursuant to the Agreement. Thereafter, during the term of this Agreement, the Contractor shall promptly and as required by the City provide written notice of the names and qualifications of any additional Contractor Personnel assigned to perform Services. The City, on a reasonable basis, shall have the right to require the removal and replacement of any of the Contractor Personnel performing Services, at any time during the term of the Agreement. The City will notify Contractor in writing in the event the City requires such action. Contractor shall accomplish any such removal within forty-eight (48) hours after receipt of notice from the City and shall promptly replace such person with another person, acceptable to the City, with sufficient knowledge and expertise to perform the Services assigned to such individual in accordance with this Agreement. In situations where individual Contractor Personnel are prohibited by applicable law from providing Services, removal and replacement of such Contractor Personnel shall be immediate and not subject to such forty-eight (48) hour replacement timeframe and the provisions of Section 7. A.1. shall apply if minimum required staffing is not maintained.

7. Termination.

A. Contractor Default Provisions and Remedies of City.

1. Events of Default. Any of the following shall constitute a "Contractor Event of Default" hereunder: (i) Contractor fails to maintain the staffing necessary to perform the Services as required in the Agreement, fails to perform the Services as specified in the Agreement, or fails to complete the

Services within the completion dates as specified in the Agreement; (ii) Contractor breaches Section 9 (Confidential Information); (iii) Contractor fails to gain acceptance of a deliverable per Section 15, if applicable, for two (2) consecutive iterations; or (iv) Contractor fails to perform or observe any of the other material provisions of this Agreement.

2. **Cure Provisions.** Upon the occurrence of a Contractor Event of Default as set out above, the City shall provide written notice of such Contractor Event of Default to Contractor (“Notice to Cure”), and Contractor shall have thirty (30) calendar days after the date of a Notice to Cure to correct, cure, and/or remedy the Contractor Event of Default described in the written notice.
3. **Termination for Cause by the City.** In the event that Contractor fails to cure a Contractor Event of Default as authorized herein, or upon the occurrence of a Contractor Event of Default as specified in Section 7.A.1.(iii), the City may terminate this Agreement in whole or in part, effective upon receipt by Contractor of written notice of termination pursuant to this provision, and may pursue such remedies at law or in equity as may be available to the City.

B. City Default Provisions and Remedies of Contractor.

1. **Events of Default.** Any of the following shall constitute a “City Event of Default” hereunder: (i) the City fails to make timely undisputed payments as described in this Agreement; (ii) the City breaches Section 9 (Confidential Information); or (iii) the City fails to perform any of the other material provisions of this Agreement.
 2. **Cure Provisions.** Upon the occurrence of a City Event of Default as set out above, Contractor shall provide written notice of such City Event of Default to the City (“Notice to Cure”), and the City shall have thirty (30) calendar days after the date of a Notice to Cure to correct, cure, and/or remedy the City Event of Default described in the written notice.
 3. **Termination for Cause by Contractor.** In the event the City fails to cure a City Event of Default as authorized herein, Contractor may terminate this Agreement in whole or in part effective on receipt by the City of written notice of termination pursuant to this provision, and may pursue such remedies at law or in equity as may be available to the Contractor.
- C. **Termination for Convenience.** Notwithstanding any other provision herein, the City may terminate this Agreement, without cause, by giving thirty (30) days advance written notice to the Contractor of its election to terminate this Agreement pursuant to this provision.

8. Time is of the Essence. Time is of the essence with respect to all provisions of this Agreement that specify a time for performance, including the Services as described in Exhibits attached hereto; provided, however, that the foregoing shall not be construed to limit a Party’s cure period allowed in the Agreement.

9. Confidential Information and Public Records.

- A. **City Confidential Information.** Contractor shall not disclose to any third party City Confidential Information that Contractor, through its Contractor Personnel, has access to or has received from the City pursuant to its performance of Services pursuant to the Agreement, unless approved in writing by the City Contract Manager. All such City Confidential Information will be held in trust and confidence from the date of disclosure by the City, and discussions involving such City Confidential Information shall be limited to Contractor Personnel as is necessary to complete the Services.
- B. **Contractor Confidential Information.** All Contractor Confidential Information received by the City from Contractor will be held in trust and confidence from the date of disclosure by Contractor and discussions involving such Contractor Confidential Information shall be limited to the members of the City’s staff and the City’s subcontractors who require such information in the performance of this Agreement. The City acknowledges and agrees to respect the copyrights, registrations, trade secrets

and other proprietary rights of Contractor in the Contractor Confidential Information during and after the term of the Agreement and shall at all times maintain the confidentiality of the Contractor Confidential Information provided to the City, subject to federal law and the laws of the State of Florida related to public records disclosure. Contractor shall be solely responsible for taking any and all action it deems necessary to protect its Contractor Confidential Information except as provided herein. Contractor acknowledges that the City is subject to public records legislation, including but not limited to Chapter 119, Florida Statutes, and the Florida Rules of Judicial Administration, and that any of the City's obligations under this Section may be superseded by its obligations under any requirements of said laws.

C. Public Records. Contractor acknowledges that information and data it manages as part of the services may be public records in accordance with Chapter 119, Florida Statutes and Pinellas City public records policies. Contractor agrees that prior to providing services it will implement policies and procedures to maintain, produce, secure, and retain public records in accordance with applicable laws, regulations, and City policies, including but not limited to the Section 119.0701, Florida Statutes. Notwithstanding any other provision of this Agreement relating to compensation, the Contractor agrees to charge the City, and/or any third parties requesting public records only such fees allowed by Section 119.07, Florida Statutes, and City policy for locating and producing public records during the term of this Agreement.

10. Audit. Contractor shall retain all records relating to this Agreement for a period of at least three (3) years after final payment is made. All records shall be kept in such a way as will permit their inspection pursuant to Chapter 119, Florida Statutes. In addition, City reserves the right to examine and/or audit such records.

11. Compliance with Laws.

The laws of the State of Florida apply to any purchase made under this Request for Proposal. Proposers shall comply with all local, state, and federal directives, orders and laws as applicable to this proposal and subsequent contract(s) including but not limited to Americans with Disabilities Act (ADA), Section 504 of the Rehabilitation Act of 1973, Equal Employment Opportunity (EEO), Minority Business Enterprise (MBE), and OSHA as applicable to this contract.

12. Public Entities Crimes. Contractor is directed to the Florida Public Entities Crime Act, Section 287.133, Florida Statutes, and represents to City that Contractor is qualified to transact business with public entities in Florida.

13. Liability and Insurance.

A. Insurance. Contractor shall comply with the insurance requirements set out in Exhibit C, attached hereto and incorporated herein by reference.

B. Indemnification. Contractor agrees to indemnify, pay the cost of defense, including attorney's fees, and hold harmless the City, its officers, employees and agents from all damages, suits, actions or claims, including reasonable attorney's fees incurred by the City, of any character brought on account of any injuries or damages received or sustained by any person, persons, or property, or in any way relating to or arising from the Agreement; or on account of any act or omission, neglect or misconduct of Contractor; or by, or on account of, any claim or amounts recovered under the Workers' Compensation Law or of any other laws, regulations, ordinance, order or decree; or arising from or by reason of any actual or claimed trademark, patent or copyright infringement or litigation based thereon; except only such injury or damage as shall have been occasioned by the sole negligence of the City.

C. Liability. Neither the City nor Contractor shall make any express or implied agreements, guaranties or representations, or incur any debt, in the name of or on behalf of the other Party. Neither the City nor Contractor shall be obligated by or have any liability under any agreements or representations made by the other that are not expressly authorized hereunder. The City shall have no liability or

obligation for any damages to any person or property directly or indirectly arising out of the operation by Contractor of its business, whether caused by Contractor's negligence or willful action or failure to act.

D. Contractor's Taxes. The City will have no liability for any sales, service, value added, use, excise, gross receipts, property, workers' compensation, unemployment compensation, withholding or other taxes, whether levied upon Contractor or Contractor's assets, or upon the City in connection with Services performed or business conducted by Contractor. Payment of all such taxes and liabilities shall be the responsibility of Contractor.

14. City's Funding. The Agreement is not a general obligation of the City. It is understood that neither this Agreement nor any representation by any City employee or officer creates any obligation to appropriate or make monies available for the purpose of the Agreement beyond the fiscal year in which this Agreement is executed. No liability shall be incurred by the City, or any department, beyond the monies budgeted and available for this purpose. If funds are not appropriated by the City for any or all of this Agreement, the City shall not be obligated to pay any sums provided pursuant to this Agreement beyond the portion for which funds are appropriated. The City agrees to promptly notify Contractor in writing of such failure of appropriation, and upon receipt of such notice, this Agreement, and all rights and obligations contained herein, shall terminate without liability or penalty to the City.

15. Acceptance of Services. For all Services deliverables that require City acceptance as provided in the Statement of Work, the City, through the City Manager or designee, will have ten (10) calendar days to review the deliverable(s) after receipt or completion of same by Contractor, and either accept or reject the deliverable(s) by written notice to Contractor. If a deliverable is rejected, the written notice from the City will specify any required changes, deficiencies, and/or additions necessary. Contractor shall then have seven (7) calendar days to revise the deliverable(s) to resubmit and/or complete the deliverable(s) for review and approval by the City, who will then have seven (7) calendar days to review and approve, or reject the deliverable(s); provided however, that Contractor shall not be responsible for any delays in the overall project schedule that result from the City's failure to timely approve or reject deliverable(s) as provided herein. Upon final acceptance of the deliverable(s), the City will accept the deliverable(s) in writing.

16. Subcontracting/Assignment.

A. Subcontracting. Contractor is fully responsible for completion of the Services required by this Agreement and for completion of all subcontractor work, if authorized as provided herein. Contractor shall not subcontract any work under this Agreement to any subcontractor other than the subcontractors specified in the proposal and previously approved by the City, without the prior written consent of the City, which shall be determined by the City in its sole discretion.

B. Assignment. This Agreement, and any rights or obligations hereunder, shall not be assigned, transferred or delegated to any other person or entity. Any purported assignment in violation of this section shall be null and void.

17. Survival. The following provisions shall survive the expiration or termination of the Term of this Agreement: 7, 9, 10, 13, 20, 23 and (others which by their nature would survive).

18. Notices. All notices, authorizations, and requests in connection with this Agreement shall be deemed given on the day they are: (1) deposited in the U.S. mail, postage prepaid, certified or registered, return receipt requested; or (2) sent by air express courier (e.g., Federal Express, Airborne, etc.), charges prepaid, return receipt requested; or (iii) sent via email and addressed as set forth below, which designated person(s) may be amended by either Party by giving written notice to the other Party:

If to City, to:

City of Madeira Beach
Attn: Shane Crawford, City Manager
300 Municipal Drive
Madeira Beach, FL 33708

If to Contractor, to:

Hubbard's Sea Adventures, Inc.
Attn: Mark Hubbard
170 John's Pass Boardwalk
Madeira Beach, FL 33708

With a copy to:

Trask Daigneault, LLP
Attn: Thomas J. Trask, City Attorney
1001 South Fort Harrison Avenue, Suite 201
Clearwater, FL 33756

19. Conflict of Interest.

- A. The Contractor represents that it presently has no interest and shall acquire no interest, either direct or indirect, which would conflict in any manner with the performance of the Services required hereunder, and that no person having any such interest shall be employed by Contractor during the agreement term and any extensions.
- B. The Contractor shall promptly notify the City in writing of any business association, interest, or other circumstance which constitutes a conflict of interest as provided herein. If the Contractor is in doubt as to whether a prospective business association, interest, or other circumstance constitutes a conflict of interest, the Contract may identify the prospective business association, interest or circumstance, the nature of work that the Contractor may undertake and request an opinion as to whether the business association, interest or circumstance constitutes a conflict of interest if entered into by the Contractor. The City agrees to notify the Contractor of its opinion within (10) calendar days of receipt of notification by the Contractor, which shall be binding on the Contractor.

20. Right to Ownership. All work created, originated and/or prepared by Contractor in performing Services pursuant to the Agreement, other documentation or improvements related thereto, to the extent that such work, products, documentation, materials or information are described in or required by the Services (collectively, the "Work Product") shall be City's property when completed and accepted, if acceptance is required in this Agreement, and the City has made payment of the sums due therefore. The ideas, concepts, know-how or techniques developed during the course of this Agreement by the Contractor or jointly by Contractor and the City may be used by the City without obligation of notice or accounting to the Contractor. Any data, information or other materials furnished by the City for use by Contractor under this Agreement shall remain the sole property of the City.

21. Amendment. This Agreement may be amended by mutual written agreement of the Parties hereto.

22. Severability. The terms and conditions of this Agreement shall be deemed to be severable. Consequently, if any clause, term, or condition hereof shall be held to be illegal or void, such determination shall not affect the validity or legality of the remaining terms and conditions, and notwithstanding any such determination, this Agreement shall continue in full force and effect unless the particular clause, term, or condition held to be illegal or void renders the balance of the Agreement impossible to perform.

23. Applicable Law and Venue. This Agreement shall be governed by and construed in accordance with the laws of the State of Florida (without regard to principles of conflicts of laws). The Parties agree that all actions or proceedings arising in connection with this Agreement shall be tried and litigated exclusively in the state or federal (if permitted by law and a Party elects to file an action in federal court) courts located in or for Pinellas City, Florida. This choice of venue is intended by the Parties to be mandatory and not permissive in nature, and to preclude the possibility of litigation between the Parties with respect to, or arising out of, this Agreement in

any jurisdiction other than that specified in this section. Each Party waives any right it may have to assert the doctrine of *forum non conveniens* or similar doctrine or to object to venue with respect to any proceeding brought in accordance with this section.

24. Waiver. No waiver by either Party of any breach or violation of any covenant, term, condition, or provision of this Agreement or of the provisions of any ordinance or law, shall be construed to waive any other term, covenant, condition, provisions, ordinance or law, or of any subsequent breach or violation of the same.

25. Due Authority. Each Party to this Agreement represents and warrants that: (i) it has the full right and authority and has obtained all necessary approvals to enter into this Agreement; (ii) each person executing this Agreement on behalf of the Party is authorized to do so; (iii) this Agreement constitutes a valid and legally binding obligation of the Party, enforceable in accordance with its terms.

26. No Third Party Beneficiary. The Parties hereto acknowledge and agree that there are no third party beneficiaries to this Agreement. Persons or entities not a party to this Agreement may not claim any benefit from this Agreement or as third party beneficiaries hereto.

27. Entire Agreement. This Agreement constitutes the entire Agreement between the Parties and supersedes all prior negotiations, representations or agreements either oral or written.

IN WITNESS WHEREOF, the Parties hereto have executed this Agreement the day and year first written.

[SIGNATURES ON FOLLOWING PAGES]

CITY OF MADEIRA BEACH, a Florida municipal corporation

WITNESSES:

Print Name: _____

Print Name: _____

Travis Palladeno, Mayor

ATTEST:

Aimee Servedio, City Clerk

APPROVED AS TO FORM:

Thomas J. Trask, City Attorney

STATE OF FLORIDA
CITY OF PINELLAS

The foregoing instrument was acknowledged before me this _____ day of June, 2016, by Travis Palladeno, Mayor of the City of Madeira Beach, who ___ is personally known to me or ___ has produced a _____ driver's license or _____ as identification.

NOTARY PUBLIC, STATE OF FLORIDA

CONTRACTOR
Hubbard's Sea Adventures, Inc.

WITNESSES:

By: _____
Mark Hubbard, President

Print Name: _____

Print Name: _____

STATE OF FLORIDA
CITY OF PINELLAS

The foregoing instrument was acknowledged before me this _____ day of June, 2016, by Mark Hubbard who _____ is personally known to me or _____ has produced a _____ driver's license or _____ as identification.

NOTARY PUBLIC, STATE OF FLORIDA

SERVICES AGREEMENT

EXHIBIT A – SCOPE OF WORK

Scope of Work

The ferry schedule will split the 52 week calendar year in half, between 26 weeks in season and 26 weeks out of season.

The Madeira Beach region is in season from March to August. While in season, subsidized round trip ferry service would run three times a week on Friday, Saturday, and Sunday or Wednesday, Friday, and Sunday, depending on market variables.

While in season, ferry trips would run on one of the following schedules:

- 10 am, 1pm, 4pm, or 7pm
- 10 am, 1pm, 4pm, 7pm or 10pm
- 10 am, 1pm, 4pm, 6pm, 8pm or 10pm

The Madeira Beach region is out of season from September to February. While out of season, subsidized round trip ferry service would run twice a week on Wednesday and Saturday or Friday and Saturday, depending on market variables.

While out of season, ferry trips would run on one of the following schedules:

- 10 am, 1pm, or 4pm
- 10 am, 1pm, or 4pm
- 10 am, 1pm, or 4pm

Frequency of roundtrip ferry schedules will increase on an as needed basis, subject to demand and availability of vessels. Additionally, a charter ferry service will be on call.

To purchase tickets for the ferry service tourists or residents can log onto the Hubbard's Marina website, select the desired date of travel, submit payment information online, and tickets can be printed at home. Tickets will function as an all-day, hop on, hop off pass for the chosen date of travel. Schedules and pricing information will be posted in detail on the website. The ferry service will operate on a first-come, first-served basis, subject to availability.

Ferry service pricing will be according to age and residency, and offset by the generous support of the City of Madeira Beach:

Adults (12-64 years old) <i>Madeira Beach residents will receive 50% off while subsidized</i>	\$19.50
Children (5-11 years old) <i>Madeira Beach residents will receive 50% off while subsidized</i>	\$9.75
Senior/Active Military (65+ and active military) <i>Madeira Beach residents will receive 50% off while subsidized</i>	\$18.00
3-Day Pass (guests can ride three days within a five day period) <i>Madeira Beach residents will receive 50% off while subsidized</i>	\$49.00

SERVICES AGREEMENT

EXHIBIT A – SCOPE OF WORK

(continued)

In concert with the regular ferry schedules, Contractor will provide special event ferry service for residents and visitors.

If approved, the ferry vessels that will be utilized to perform roundtrip ferry service will split between the following:

Name of the Ferry	Dimensions	Capacity
John's Pass Express	46'x 14'	49 Passengers
Bay Ferry 1 (forthcoming)	40'x 12'	49 Passengers
Lookout Lady	38'x 10'	49 Passengers
Sea Adventure	58' x 14'	80 Passengers
	TOTAL	227 Passengers

SERVICES AGREEMENT

EXHIBIT B – FEES AND COMPENSATION

Contractor agrees to provide ferry services throughout the community under the following terms:

	<u>City to subsidize Contractor:</u>	<u>Contractor to remit payment to City:</u>
Year 1:	60% of audited expenses * but not more than \$195.00 per day per vessel	\$ 0 / month **
Year 2 (if option is exercised):	60% of audited expenses * but not more than \$195.00 per day per vessel	\$ 0 / month **
Year 3 (if option is exercised):	60% of audited expenses * but not more than \$195.00 per day per vessel	\$ 0 / month **
Year 4 (if option is exercised):	0% of audited expenses *	See (a) and (b) below **
Year 5 (if option is exercised):	0% of audited expenses *	See (a) and (b) below **

* Audited expenses are to include operating costs (i.e., personnel, fuel, insurance, maintenance, etc.) and exclude initial capital investment (i.e. boat(s), equipment, etc.). Monthly reports are to be submitted to the City of Madeira Beach Finance Department for review and reimbursement, if applicable, under the percentage terms proposed.

** Payment to the City, if applicable, shall be proposed as a monthly fee in dollar (\$) terms.

a) Proposer request the City of Madeira Beach subsidize 60% of audited expenses in the 1st, 2nd and 3rd years of service.

b)

i. A conservative estimate of the total annual cost of ferry service for one ferry vessel has been calculated to total \$42,250.00. The total cost of ferry service only covers fuel and human resources. This figure does not include the cost of the vessels, insurance, or maintenance.

ii. 60% of \$42,250.00 is \$25,350.00, or **\$195.00 per day, per vessel**.

iii. These figures were calculated using a 52 week calendar, splitting the calendar into two categories, season and non-season.

1. **Season** extends for 26 weeks and the ferry service is expected to run 3x per week, with a total of **78 days of ferry operation**.

2. **Non-season** extends for 26 weeks and the ferry service is expected to run 2x per week, with a total of **52 days of ferry operation**.

3. 78 days of season added to 52 days of non-season, **totals 130 days of annual operation**.

SERVICES AGREEMENT

EXHIBIT B – FEES AND COMPENSATION

(continued)

4. \$25,350.00 divided by 130 equals \$195.00 per day, per vessel.
- c) The attached fees and compensation form only allowed for the input of a dollar figure per month for the provision of exclusive ferry service. Contractor agrees to remit 10% of gross receipts that exceed \$150,000.00 in year four and five.
- d) The City and Contractor shall mutually agree, in advance, the fees to be paid by the City to the Contractor for special event ferry service.

SERVICES AGREEMENT

EXHIBIT C – INSURANCE REQUIREMENTS

The minimum insurance requirements and limits for this Agreement, which shall remain in effect throughout its duration and for two (2) years beyond final acceptance for projects with a Completed Operations exposure, are as follows:

- (1) Workers' Compensation Insurance including United States Longshore and Harbor Workers (USL&H) and Jones Act coverage (Jones Act may be covered under Watercraft/P&I Policy)

Limit	Florida Statutory
Employers' Liability Limits	
Per Employee	\$ 500,000
Per Employee Disease	\$ 500,000
Policy Limit Disease	\$ 500,000

- (2) Commercial General Liability Insurance including, but not limited to, Independent Contractor, Contractual Liability Premises/Operations, Products/Completed Operations, and Personal Injury.

Limits	
Combined Single Limit Per Occurrence	\$ 1,000,000
Products/Completed Operations Aggregate	\$ 1,000,000
Personal Injury and Advertising Injury	\$ 1,000,000
General Aggregate	\$ 2,000,000

- (3) Business Automobile or Trucker's/Garage Liability Insurance covering owned, hired, and non-owned vehicles. If the Proposer does not own any vehicles, then evidence of Hired and Non-owned coverage is sufficient. Coverage shall be on an "occurrence" basis, such insurance to include coverage for loading and unloading hazards, unless Proposer can show that this coverage exists under the Commercial General Liability policy.

Limit	
Combined Single Limit Per Accident	\$ 1,000,000

- (4) Watercraft Liability Insurance (or equivalent Protection & Indemnity coverage) including Ocean, Marine, Hull, and a Pollution Liability sublimit of \$1,000,000; or a separate policy, if Watercraft Liability is excluded in Pollution Legal/Environmental Legal Liability policy required in paragraph (6) below. If Excess or Umbrella Policy in paragraph (5) below does follow form for Watercraft Liability and/or Protection & Indemnity coverage, then the Watercraft Liability/Protection & Indemnity policy limits must be \$5,000,000 each occurrence and \$5,000,000 General Aggregate.

Limit	
Each Occurrence	\$ 1,000,000
General Aggregate	\$ 1,000,000

- (5) Excess or Umbrella Liability Insurance excess of the primary coverage required, in paragraphs (1), (2), (3), and (4) above:

SERVICES AGREEMENT

EXHIBIT C – INSURANCE REQUIREMENTS

(continued)

Limit

Each Occurrence or Claim	\$ 4,000,000
General Aggregate	\$ 4,000,000

(6) Pollution Legal/Environmental Legal Liability Insurance (if excluded from Watercraft Liability or equivalent Protection & Indemnity coverage) for pollution losses arising from all services performed to comply with this contract. Coverage shall apply to sudden and gradual pollution conditions including the discharge, dispersal, release or escape of smoke, vapors, soot, fumes, acids, alkalis, toxic chemicals, liquids or gases, waste materials or other irritants, contaminants or pollutants into or upon land, the atmosphere or any watercourse or body of water, which results in Bodily Injury or Property Damage. If policy is written on a Claims Made form, a retroactive date is required, and coverage must be maintained for 3 years after completion of contract or "tail coverage must be purchased. Coverage should include and be for the at least the minimum limits listed below:

- i) Bodily injury, sickness, disease, mental anguish or shock sustained by any person, including death; property damage including physical injury to or destruction of tangible property including the resulting loss of use thereof, clean up costs, and the loss of use of tangible property that has not been physically injured or destroyed;
- ii) Defense including costs, charges and expenses incurred in the investigation, adjustment or defense of claims for such compensation damages.
- iii) Cost of Cleanup/Remediation.

Limits

Per Claim or Occurrence	\$ 1,000,000
General Aggregate	\$ 1,000,000

For acceptance of Pollution Legal/Environmental Legal Liability coverage included within another policy coverage required herein, a statement notifying the certificate holder must be included on the certificate of insurance and the total amount of said coverage per occurrence must be greater than or equal to the amount of Pollution Legal/Environmental Legal Liability and other coverage combined.

(7) Property Insurance Proposer will be responsible for all damage to its own property, equipment and/or materials.

SERVICES AGREEMENT

EXHIBIT D – DISPUTE RESOLUTION FOR MADEIRA BEACH BOARD OF COMMISSIONERS IN MATTERS OF INVOICE PAYMENTS, IF APPLICABLE

PAYMENT/INVOICES:

CONTRACTOR shall submit invoices for payment due as provided herein with such documentation as required by the City of Madeira Beach and all payments shall be made in accordance with the requirements of Section 218.70 et. seq, Florida Statutes, "The Local Government Prompt Payment Act." Invoices shall be submitted to the address below unless instructed otherwise on the purchase order, or if no purchase order, by the ordering department:

Finance Department
City of Madeira Beach
300 Municipal Drive
Madeira Beach, FL 33708

Each invoice shall include, at a minimum, the CONTRACTOR's name, contact information and the standard purchase order number. In order to expedite payment, it is recommended the CONTRACTOR also include the information shown in below. The City may dispute any payments invoiced by CONTRACTOR pursuant to Section 218.76, Florida Statutes, and the Dispute Resolution Process set forth below.

INVOICE INFORMATION:

Contractor Information	Company name, mailing address, phone number, contact name and email address as provided on the PO.
Remit To	Billing address to which you are requesting payment be sent.
Invoice Date	Creation date of the invoice.
Invoice Number	Company tracking number.
Shipping Address	Address where goods and/or services were delivered.
Ordering Department	Name of ordering department, including name and phone number of contact person.
PO Number	Standard purchase order number.
Ship Date	Date the goods/services were sent/provided.
Quantity	Quantity of goods or services billed.
Description	Description of services or goods delivered.
Unit Price	Unit price for the quantity of goods/services delivered.
Line Total	Amount due by line item.
Invoice Total	Sum of all of the line totals for the invoice.

Payment of invoices for work performed for Madeira Beach Board of City Commissioners (City) is made, by standard, in arrears in accordance with Section 218.70, et. seq., Florida Statutes, the Local Government Prompt Payment Act.

SERVICES AGREEMENT

EXHIBIT D – DISPUTE RESOLUTION FOR MADEIRA BEACH BOARD OF COMMISSIONERS IN MATTERS OF INVOICE PAYMENTS, IF APPLICABLE

If a dispute should arise as a result of non-payment of a payment request or invoice the following Dispute Resolution process shall apply:

- A. The City shall notify the Contractor in writing within ten (10) days after receipt of an improper invoice, that the invoice is improper. The notice should indicate what steps the Contractor should undertake to correct the invoice and resubmit a proper invoice to the City. The steps taken by the Contractor shall be that of initially contacting the requesting department to validate their invoice and receive a sign off from that entity that would indicate that the invoice in question is in keeping with the terms and conditions of the agreement. Once sign off is obtained, the Contractor should then resubmit the invoice as a "Corrected Invoice" to the requesting department which will initiate the payment timeline.
 - 1) Requesting department for this purpose is defined as the City department for whom the work is performed.
 - 2) Proper invoice for this purpose is defined as an invoice submitted for work performed that meets prior agreed upon terms or conditions to the satisfaction of the City.
- B. Should a dispute result between the Contractor and the City about payment of a payment request or an invoice then the Contractor should submit their dissatisfaction in writing to the Requesting Department. Each Requesting Department shall assign a representative who shall act as a "Dispute Manager" to resolve the issue at departmental level.
- C. The Dispute Manager shall first initiate procedures to investigate the dispute and document the steps taken to resolve the issue in accordance with section 218.76 Florida Statutes. Such procedures shall be commenced no later than forty-five (45) days after the date on which the payment request or invoice was received by Madeira Beach, and shall not extend beyond sixty (60) days after the date on which the payment request or invoice was received by the City.
- D. The Dispute Manager should investigate and ascertain that the work, for which the payment request or invoice has been submitted, was performed to City's satisfaction and duly accepted by the Proper Authority. Proper Authority for this purpose is defined as the City's representative who is designated as the approving authority for the work performed in the contractual document. The Dispute Manager shall perform the required investigation and arrive at a solution before or at the sixty (60) days timeframe for resolution of the dispute, per section 218.76, Florida Statutes. The City Manager or his or her designee shall be the final arbiter in resolving the issue before it becomes a legal matter. The City Manager or his or her designee will issue their decision in writing.
- E. City Dispute Resolution Procedures shall not be subject to Chapter 120 of the Florida Statutes. The procedures shall also, per section 218.76, Florida Statutes, not be intended as an administrative proceeding which would prohibit a court from ruling again on any action resulting from the dispute.
- F. Should the dispute be resolved in the City's favor interest charges begin to accrue fifteen (15) days after the final decision made by the City. Should the dispute be resolved in the vendor's favor the City shall pay interest as of the original date the payment was due.
- G. For any legal action to recover any fees due because of the application of sections 218.70 et. seq., Florida Statutes, an award shall be made to cover court costs and reasonable attorney fees, including those fees incurred as a result of an appeal, to the prevailing party. If it is found that the non-prevailing party held back any payment that was the reason for the dispute without having any reasonable lawful basis or fact to dispute the prevailing party's claim to those amounts.



MEMORANDUM

To: Board of Commissioners
From: Shane B. Crawford, City Manager
Subject: Petition for Referendum
Date: June 14, 2016

*Sr 304
June 14, 16*

BOC members—

This is a draft of a memo put together by Dave Healey, the City's planning consultant.

He states that the statement on the "petition for referendum" is inaccurate and misleading.

Ordinance 2014-08 (which is the one considered for reconsideration) did NOT add a Planned Development zoning district nor did it permit increased height and density.

PD has existed since 2005 in Madeira Beach.

His final paragraph is a good summary which basically states that the repeal of the ordinance would not require a development agreement for the Holiday Isles Project (Jim Holton) or the Madeira Town Center (Bill Karns) project.

The City Attorney requested that you have this info prior to tonight's meeting.



MEMORANDUM

TO: Mayor and City Commissioners
City of Madeira Beach

FROM: David P. Healey, FAICP 
Calvin, Giordano & Associates, Inc.

THROUGH: Shane Crawford, City Manager
Thomas Trask, City Attorney

SUBJECT: Petition for Referendum

DATE: June 14, 2016

I have reviewed the document entitled "A PETITION FOR A REFERENDUM" requesting reconsideration of Ordinance 2014-08, which includes the following statement:

"This petition requires reconsideration by the Commission of Ordinance 2014-08 which purports to be an amendment to the Madeira Beach Code of Ordinances, Subpart B, Land Development Regulations, which adds, among other things, a PD (Planned Development) zoning district which permits increased height and density in areas in the City."

I find the above referenced statement alleging that Ordinance 2014-08 added, "among other things, a PD (Planned Development) zoning district which permits increased height and density in areas in the City" to be inaccurate and misleading.

Ordinance 2014-08 did not in fact add a PD (Planned Development) zoning district to the Land Development Regulations, nor did it permit increased height and density in areas in the City.

In fact the PD (Planned Development) zoning district has existed in the City's Land Development Regulations since 2005 (Ordinance 1040 effective 4/26/05). With specific respect to the PD district, Ordinance 2014-08 simply required the use of the PD district, consistent with provisions therefor in the Comprehensive Plan and Town Center Special Area Plan, and more clearly enumerated the PD application process.

- Building Code Services
- Coastal Engineering
- Code Enforcement
- Construction Engineering and Inspection
- Construction Services
- Contract Government
- Data Technologies and Development
- Emergency Management Services
- Engineering
- Environmental Services
- Facilities Management
- Indoor Air Quality
- Landscape Architecture
- Municipal Engineering Planning
- Public Administration
- Redevelopment and Urban Design
- Surveying and Mapping
- Traffic Engineering
- Transportation Planning

GSA Contract Holder

Feather Sound
Corporate Center
13535 Feather Sound Dr.
Suite 135
Clearwater, FL 33762
727.394.3825 phone

www.cgasolutions.com



In brief, the repeal of Ordinance 2014-08 would not eliminate the City's ability to use the PD district and the important safeguards it provides through the rezoning and public hearing process, accompanied by the review and approval of a corresponding site development plan, as it has been applied to either the Holiday Isles or Madeira Beach Development Co. project currently being considered.

Servedio, Aimee

From: Lisa Ray <clazray@aol.com>
Sent: Tuesday, June 14, 2016 2:15 PM
To: Lister, Terry
Subject: postponing vote

Dear Commissioner Lister,

Please postpone the vote on the new developments tonight.

Sincerely,

Lisa Ray
clazray@aol.com

Servedio, Aimee

From: cdlpal@comcast.net
Sent: Tuesday, June 14, 2016 2:10 PM
To: Hodges, Nancy; Palladeno, Travis; Lister, Terry; Shontz, Pat; Poe, Elaine
Cc: Lanshe
Subject: Madeira Beach Development Referendum

My husband and I are residents of Florida about 7 months of the year. We have not been approached to sign the petition to immediately suspend the proposed Holton and Karns redevelopment projects. We greatly regret that we did not sign the petition and that we were unable to actively work against these development projects. We have always been in favor of redevelopment of Madeira Way and 150th Avenue. However, we believe the proposed Holton and Karns projects are great examples of redevelopment that reflects builder greed with no regard for its disastrous effect on the Madeira Beach community.

We return to Madeira Beach on October 2. Our names will be added to the list of those who are willing and eager to work against the Karns and Holton proposals. We will be watching the BOC Meeting tonight and pledge to work to defeat anyone who supports these proposals, including the City Manager, Mayor and Commissioners.

I was part of the effort to defeat the proposed high and dry for the City Marina (the maximum boat capacity that the marina could handle was too small to make a high and dry profitable) and a study of the financial statements for the prior several years proved that the marina lost money for each of those years. The City Manager at that time (2007) finally admitted that the marina did not lose money and did not make money. We concluded that the books were balanced by injection funding - taking money from the General Fund and injecting it into the marina statements to conclude that "the marina does not make money and it does not lose money. What a farce.

My husband and I will watch the progress (or defeat of) the proposed redevelopment projects until we return on October 2 at which time we will decide what role we can play in the effort to defeat them as proposed.

We live in Madeira Cove. It is impossible to go door to door for people who do not live there to collect signatures for any petition. Other condo communities will experience the same difficulty. Having access to these communities would have allowed the potential for many more signatures.

Catherine and Pete Lanshe, 399 150th Avenue, A305

Sent from XFINITY Connect Mobile App

Servedio, Aimee

From: Judy Tagert <judy@judytagert.com>
Sent: Tuesday, June 14, 2016 1:26 PM
To: Palladeno, Travis; Shontz, Pat; Lister, Terry
Subject: Against Massive developments

I am against the approval of changing the zoning to PD on Holiday Isle and Madeira Beach Town Center.

Servedio, Aimee

From: Mary Barker <mmbarker39@msn.com>
Sent: Tuesday, June 14, 2016 1:22 PM
To: Lister, Terry
Subject: Vote on new development.

Please postpone the vote on the new development. I beg that you allow the citizens whom you represent to have a voice as to the height of buildings in the city in which we live. Please consider my request. I want the development However I think all citizens, not just appointed officials should have a say.

Servedio, Aimee

From: Petesflys@aol.com
Sent: Tuesday, June 14, 2016 12:33 PM
To: Shontz, Pat
Subject: BUILDING

ASK THE PEOPLE THAT LIVE AND PEOPLE THAT BEEN COMING THERE FOR YEARS DONT DO IT IF IT IS BUILT LIKE YOU SAY IT IS ME AND MY FAMILY WILL NEVER GO TO MADEIRA BEACH AGAIN PLEASE SEND THIS TO ALL WHO ARE ON THE BOARD THANK YOU DOMINICK P MANCUSO PITTSFIELD MASS

ALSO I AM SENDING THIS PETITION TO ALL THAT I KNOW WILL BE WITH THE WAY I THINK

Servedio, Aimee

From: SBaker7596@aol.com
Sent: Tuesday, June 14, 2016 11:50 AM
To: Lister, Terry; Palladeno, Travis; Poe, Elaine; Hodges, Nancy; Crawford, Shane; Shontz, Pat
Cc: joetj@treinc.com; jmohns@mac.com; ferrell744@tampabay.rr.com; billgay@me.com
Subject: Rezoning hearings

Commissioners
City Manager

Why are you ignoring the 1,025 citizen voters who oppose your excessive development proposals?

Haven't you ever heard of the First Amendment to the U.S. Constitution?

Its astonishing.

S. M. Baker
citizen

From: kweiss1@tampabay.rr.com
To: tom@cityattorneys.legal, Jay@cityattorneys.legal
Sent: 6/14/2016 10:19:23 A.M. Eastern Daylight Time
Subj: FW: Rezoning hearings

Mssrs. Trask/Daigneault,

The citizens of Madeira Beach who signed the petition recognize that the City, will, in all likelihood, proceed with the vote tonight despite their filing of the petitions for reconsideration of the ordinance.

According to the City Charter, the ordinance was ³suspended from taking effect² upon the filing of the petitions. Any votes to approve the rezoning ordinances or the development agreements are, therefore, invalid. The citizens understand that the city has its legal arguments and the citizens have theirs. Eventually, in a year or two, the issues will be resolved by the courts. That will follow the expenditure of tens of thousands of taxpayer dollars spent to defend the developers' rezoning applications.

In St. Pete Beach, the city agreed to defend the developers' comprehensive plan. That cost the taxpayers \$2 million. The developers never paid a penny.

The developers expect to reap tens, if not hundreds, of millions of dollars by developing their proposed projects. If the City decides to adopt the rezonings tonight, perhaps, as an additional condition, the City should require the developers to pay the legal fees and costs of the City in defending their rezoning applications. Why should the City and the citizens bear this expense?

Despite the legal matters, the real issue here is why the Mayor and the commissioners would vote to approve the rezonings and simply ignore more

than 1000 of their constituents' concerns about the projects. And, perhaps more compelling, is why the developers would want to pursue projects that have met with such citizen outrage. 1000 people, fully 2/3 of the people who voted in the last cit election oppose the project. Add to this, the fact that the voters, in March, soundly rejected by a 2-1 margin giving the commission the authority to sell city property without citizen approval.

Do the citizens' voices have no meaning? Does it not matter to the city's elected officials that 1000 voters object to the plan? Does it not matter that they were elected to represent the interests of the voters? Are voters' interests in protecting their community and their way of life irrelevant to the Commission? If the Commission approves the rezonings tonight that will be their clear message. Perhaps the Mayor and the commissioners will explain at the meeting why they simply ignore the interests of 1000 voters. Is it just because they can?

Sincerely,

Kenneth L. Weiss

--

Kenneth L. Weiss, Esq.
11085 9th St. E.
Treasure Island, FL 33706
727-415-3672
kweiss1@tampabay.rr.com

Servedio, Aimee

From: June Mohns <jmohns@mac.com>
Sent: Tuesday, June 14, 2016 11:31 AM
To: Palladeno, Travis; Lister, Terry; Hodges, Nancy; elaine.poe@madeirabeachfl.gov
Subject: Postpone or Vote No

Morning,

I am writing to ask you to please postpone the vote on these developments.

The City Attorney's 'ruling' is an opinion, which will be evaluated about a court who actually does 'rulings'. It is an opinion.

With the overwhelming number of voters (more than 1/3) who signed in an attempt to stop these developments, voters expect that you would consider their viewpoint. (We all know that a Commissioner is supposed to use their judgement and has discretion when making decisions - and the community's needs should be given priority.)

Thank you for your time and consideration.

Sincerely,

June Mohns

Servedio, Aimee

From: Joe <joetj@trsinc.com>
Sent: Tuesday, June 14, 2016 11:05 AM
To: Palladeno, Travis; Lister, Terry; Hodges, Nancy; elaine.poe@madeirabeachfl.gov
Subject: FW: Rezoning hearings

Are any of you listening. Please explain to the 1000 voters in this city why you choose to ignore their request. Vote to postpone if you care what the people you have sworn to represent and give them a chance to be heard.

Despite the legal matters, the real issue here is why the Mayor and the commissioners would vote to approve the rezonings and simply ignore more than 1000 of their constituents' concerns about the projects. And, perhaps more compelling, is why the developers would want to pursue projects that have met with such citizen outrage. 1000 people, fully 2/3 of the people who voted in the last cit election oppose the project. Add to this, the fact that the voters, in March, soundly rejected by a 2-1 margin giving the commission the authority to sell city property without citizen approval.

Do the citizens' voices have no meaning? Does it not matter to the city's elected officials that 1000 voters object to the plan? Does it not matter that they were elected to represent the interests of the voters? Are voters' interests in protecting their community and their way of life irrelevant to the Commission? If the Commission approves the rezonings tonight that will be their clear message. Perhaps the Mayor and the commissioners will explain at the meeting why they simply ignore the interests of 1000 voters. Is it just because they can?

Servedio, Aimee

From: Crawford, Shane
Sent: Tuesday, June 14, 2016 10:01 AM
To: Steven Miller; Servedio, Aimee; Poe, Elaine; Hodges, Nancy; Shontz, Pat; Lister, Terry; Palladeno, Travis
Cc: 'TTrask@tmdlawfirm.com'
Subject: RE: Suspension of Ordinance 2014-08 - Petition Rejection Rebuttal

Steve,

You are in complete error.

PD existed in Madeira Beach since 2005. Feel free to review the code.

It's plainly in the code and all that 2014-08 did was add it to another part of the code where all the zoning districts were listed out.

I'm sorry, but we have to go by the book here.

Shane B. Crawford
City Manager
Madeira Beach
727-391-9951 ext 228
scrawford@madeirabeachfl.gov

From: Steven Miller [mailto:smiller091@gmail.com]
Sent: Tuesday, June 14, 2016 9:56 AM
To: Servedio, Aimee <aservedio@madeirabeachfl.gov>; Poe, Elaine <epoe@madeirabeachfl.gov>; Hodges, Nancy <nhodges@madeirabeachfl.gov>; Shontz, Pat <pshontz@madeirabeachfl.gov>; Crawford, Shane <scrawford@madeirabeachfl.gov>; Lister, Terry <tlister@madeirabeachfl.gov>; Palladeno, Travis <tpalladeno@madeirabeachfl.gov>
Subject: Suspension of Ordinance 2014-08 - Petition Rejection Rebuttal

June 14, 2016

Mayor, Commissioners, and City Manager

Subject: Suspension of Ordinance 2014-08 - Petition Rejection Rebuttal

As an interested citizen and registered voter in the city of Madeira Beach, I am again requesting that you formally acknowledge the suspension of Ordinance 2014-08 as of 8:10 AM June 10, 2016, the time at which a petition demanding such action and signed by 1025 individuals was received by the City Clerk.

By the clear terms of the city charter, as long as the city contests the sufficiency of the petition, the suspension must remain in effect until a COURT determines that the petition is insufficient. The city attorney is not a judge and does not have the authority to unilaterally declare the petition insufficient (although that may be his opinion).

If the city desires to remove the suspension, go to court and have a JUDGE declare the petition insufficient.

The City's objections to the petition are ridiculous!!

1) The plain language of the title of Ordinance 2014-08 says "PROVIDING FOR THE ADDITION OF THE PD, PLANNED DEVELOPMENT DISTRICT TO THE LIST OF ZONING DISTRICTS"

If you used PD zoning before this amendment, you did so in error. We're going by the book here.

2) The implementation of the PD Zoning district itself increases the height limits and certainly increases the density over what was previously allowed. Without the PD zoning, these properties would be limited to 3 stories with no "aggregation of density/intensity".

3) There is no language in the city charter that limits who the Circulators of a petition are. They do not even have to be residents of the city! In this case, every Circulator was a registered voter in Madeira Beach. Mr Trask should stop making up his own laws.

As individual members of the Board of Commissioners, you have a duty to obey the city charter no matter what advice you are given by the city attorney or how you feel about being a "member of the team". You also have an obligation to comply with the city's Comprehensive Plan and the Madeira Beach Town Center Special Area Plan, both of which clearly state that their primary goal is to "ensure that the residential/family and beach community character of the City of Madeira Beach is maintained and protected". How these developments achieve this goal is not addressed in any of the proposals.

Looking Forward To Your Response

Steven Miller
15329 Harbor Drive
Madeira Beach Fl 33708

Servedio, Aimee

From: Steven Miller <smiller091@gmail.com>
Sent: Tuesday, June 14, 2016 9:56 AM
To: Servedio, Aimee; Poe, Elaine; Hodges, Nancy; Shontz, Pat; Crawford, Shane; Lister, Terry; Palladeno, Travis
Subject: Suspension of Ordinance 2014-08 - Petition Rejection Rebuttal

June 14, 2016

Mayor, Commissioners, and City Manager

Subject: Suspension of Ordinance 2014-08 - Petition Rejection Rebuttal

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Looking Forward To Your Response

Steven Miller
15329 Harbor Drive
Madeira Beach FL 33708

Servedio, Aimee

From: sandandy@tampabay.rr.com
Sent: Tuesday, June 14, 2016 12:17 AM
To: Crawford, Shane
Subject: Madeira Beach Ruination

Dear City Manager, Mayor and Commissioners,

It is with heavy heart that we are witnessing the unabashed turning over of our community to greed and development. Madeira is being put up for sale to accommodate tourists with no regard for those who live and work and travel on these roads. You, who are seated on the commission, must uphold your duty to represent us, the people, not the men in suits, who have deemed Madeira as the last bastion of paradise to fill up with their concrete boxes. DO THE RIGHT THING and abide by the wishes of your constituents. Madeira Beach must not be chalked up as another "paradise lost". She is a jewel and much too precious to us all!

Sandy Holloway
Immediate Past President
Seminole Historical Society

Servedio, Aimee

From: ferrell744@tampabay.rr.com
Sent: Monday, June 13, 2016 10:49 PM
To: Crawford, Shane; Palladeno, Travis
Subject: VOTING ON THE BALLOT TUESDAY BOC MEETING

Gentlemen

I urge you and the commissioners to postpone your voting on the agenda to move forward with the proposed development plan as it now stands.

Please get together with the residents and work out a compromise on a moderate development program.

Tom and Barbara Ferrell
744 Pruitt Drive

Servedio, Aimee

From: goodmanny@aol.com
Sent: Monday, June 13, 2016 9:27 PM
To: Shontz, Pat
Subject: Commission vote tomorrow

Mrs. Shontz,

As Madeira Beach property owners and winter residents, we strongly ask you to postpone voting tomorrow night and let the petition process be heard.

We also ask you to reconsider your vote in favor of this huge project and the impact it will have on Madeira Beach for years to come, especially the city's infrastructure and quality of life.

Thank you,

Janet and Bill Goodman
172 131st Ave. East,
Madeira Beach

Servedio, Aimee

From: Kathryn Voskuil <kvosk4@gmail.com>
Sent: Tuesday, June 14, 2016 9:25 AM
To: Crawford, Shane; Palladeno, Travis; Poe, Elaine; Hodges, Nancy; Lister, Terry; Shontz, Pat; Jim.Everett@yahoo.com; mike@doradosi.com; jeffthejewelerflorida@gmail.com; Carrden23@gmail.com; dlaw@giopsnow.com; Annras1@gmail.com
Subject: Postpone Vote

Over 1000 Madeira beach voters, like me, want our voices heard regarding the Madeira Beach development.

The ordinance is suspended... Do not vote tonight...represent your constituents that want to have more discussion before critical decisions are made about our community.

Do Not Vote and if you do, Vote against the development!

Kathryn Voskuil
Registered Madeira Beach Voter
14555 N Bayshore Drive
Madeira Beach, FL 33708

Servedio, Aimee

From: Gerri Clyatt <gerrigallo@gmail.com>
Sent: Monday, June 13, 2016 9:04 PM
To: Palladeno, Travis
Subject: Vote on proposed developments

I am requesting that you postpone the vote on the Madeira way and Holton developments

Servedio, Aimee

From: JHi9804912@aol.com
Sent: Monday, June 13, 2016 8:57 PM
To: Poe, Elaine
Subject: do not vote on ornance tomorrow

DO NOT VOTE ON ORDNANCE TOMORROW jeff hickey normandy rd madeira beach

Servedio, Aimee

From: Thomas Graham <thomas.j.graham@att.net>
Sent: Monday, June 13, 2016 8:50 PM
To: Poe, Elaine
Subject: NO on these development plans!

Stand your ground Elaine.

Servedio, Aimee

From: llcint@juno.com
Sent: Monday, June 13, 2016 8:49 PM
To: Crawford, Shane; Palladeno, Travis; Poe, Elaine; Hodges, Nancy; Lister, Terry
Cc: Shontz, Pat; Jim.Everett@yahoo.com; mike@doradosi.com; jeffthejewelerflorida@gmail.com; Carrden23@gmail.com; dlaw@giopsnow.com; Annras1@gmail.com
Subject: June 14th Meeting

The Commission should not vote on the proposed developments.

Postpone the voting.

The petition is submitted and the ordinance is suspended.

Commissioners, listen to your community.

Servedio, Aimee

From: ALLANTIQUE@aol.com
Sent: Monday, June 13, 2016 8:36 PM
To: Poe, Elaine
Subject: PROPOSED DEVELOPMENTS VOTING

As people who have lived for almost 6 months at a time in Madeira Beach, we have paid taxes (more than the residents), supported the local restaurants, shops, stores etc. However, we are unable to vote because we are not residents.

However, our voices also should be heard. Please **POSTPONE** the vote for the planned developments which will bring more traffic than the bridge and causeway can handle. The Skyscraper hotels & condos will bring more congestion in an already congested area.

Listen to the **PEOPLE** of Madeira Beach who have signed petitions. We are the ones who plan on being here for years and will have to endure your decisions long after you have moved on.

Charles & Theresa DeRoller
179 Medallion Blvd.
Madeira Beach, Fl. 33708

Servedio, Aimee

From: Dianne Ray <dianne.dcr@gmail.com>
Sent: Monday, June 13, 2016 8:06 PM
To: Lister, Terry
Subject: STOP

The vote! Listen to the residents

Servedio, Aimee

From: Rick Hunter <rick@ammetail.com>
Sent: Monday, June 13, 2016 7:40 PM
To: Poe, Elaine
Subject: THANK YOU !

For your efforts in representing the citizens of Mad beach in the development projects My wife and I own a house at 14791 N. Bayshore Dr. for over 4 years. We wouldn't have purchased our home , if we had known about the drastic changes that are being pushed on us. It would definitely change the small town charm , All our neighbors feel the same. You are representing the silent majority . Keep up the great work , it is truly appreciated

Thank you !

Rick Hunter
President/General Manager
A. M. Metal Finishing Inc.
7594 Chancellor Drive
Orlando FL, 32809
Ph [407 843 0182](tel:4078430182)
Fax [407 849 1724](tel:4078491724)
rick@ammetail.com
www.ammetail.com

Servedio, Aimee

From: Tom Boyer <tboyer5003@aol.com>
Sent: Monday, June 13, 2016 7:26 PM
To: Palladeno, Travis
Subject: Development

I spoke with u back in December after receiving a very threatening email from Mr Crawford. I believe in development, I want development . I do not want over building. Please vote to allow the tax payers to decide what is exseptible.

Thank You
Tom Boyer, 14900 Gulf Blvd

Sent from AOL Mobile Mail

Servedio, Aimee

From: Linda Hein <lchein49@yahoo.com>
Sent: Monday, June 13, 2016 6:39 PM
To: Palladeno, Travis
Cc: Shontz, Pat; Lister, Terry; Hodges, Nancy; Poe, Elaine
Subject: Madeira Beach Planned Developments

Dear Mayor and Members of the Board of Commissioners:

I am a resident of Madeira Beach and moved here in June 2003 to make this my full time home. I looked all along the beaches to find a nice home and fell in love with Madeira Beach when my realtor showed me condos in the area.

I do not support the changes made to the comprehensive plan in 2014 that opened the community to high-rise developments in our Town Center and along 150th Ave.

I do support the citizen's petition presented to the city clerk on Friday, June 10th.

The City Charter (Chapter XIII) requires that 25% of the registered voters sign a petition to activate a referendum. The canvassers gathered signatures from 1,025 registered voters over a 2-week period, more than the 793 signatures needed to put the petition before the City Commission for action.

I urge you to accept the petition and repeal the 2014 changes to the comprehensive plan. You did not feel that there were many opponents among the residents and I hope with the signatures on the petition you now realize that there is massive opposition to the over-development.

I would love to see the town center and areas along 150th Ave redeveloped but I would like to go back to the height and density requirements before the ordinance changes in 2014. The 2009 plan was the development I had expected when I heard of new proposals being planned. If proposed developments were offered that complied with the 2009 comprehensive plan I would gladly have supported and welcomed the change.

I am not against development but am opposed to the height and density proposed by Mr Karns and Mr Holton for their projects. I am not against development or change, just over development that is too much for our village. I like the quaintness and small town feel of Madeira Beach and feel the proposed developments would ruin the look and feel.

Sincerely,

Linda C. Hein
401 150th Ave #221
Madeira Beach, FL 33708

Servedio, Aimee

From: anna pereira <pereiraanna@yahoo.ca>
Sent: Monday, June 13, 2016 9:40 AM
To: Servedio, Aimee
Subject: Fw: from Anna & William Pereira.....re:petition of signatures filed with the City today regarding 2 major developments

Aimee(City Clerk),

Below is the 2nd e-mail sent June 10,2016 explaining why we can't attend the meeting in person.

Thanks,
Anna & William Pereira

On Friday, June 10, 2016 7:05 PM, anna pereira <pereiraanna@yahoo.ca> wrote:

We would love to be at the meeting (& travel there 4-5 times/yr) but we live & have work commitments in Toronto,Canada.
Our kids are still in High School so next trip is in July.

On Friday, June 10, 2016 6:37 PM, "Crawford, Shane" <scrawford@madeirabeachfl.gov> wrote:

Please please attend the meeting on Tuesday the City needs your support and invite anyone else who also agrees that progress is a good thing for our community,

Thank you

Sent from my iPhone

On Jun 10, 2016, at 6:30 PM, anna pereira <pereiraanna@yahoo.ca> wrote:

Hello Mr.Crawford & Mayor Palladeno,

As you know we are multiple property owners in Madeira Beach (since 2003).

We have been following the petition of signatures filed today with the City to stop 2 key proposed developments.

As you are aware if these developments are stopped then it will send a clear message that the City does NOT welcome development & this will certainly drive away investment. As longtime investors that love & believe in Madeira Beach we will be among many who will question whether we will want to stay or just leave a City that has no intention to progress.

We are confident that a golden opportunity for all will be thrown away should these developments be stopped.

There are many like us in Madeira Beach who feel the same way.

Thank you for your efforts.

Anna & William Pereira

Servedio, Aimee

From: anna pereira <pereiraanna@yahoo.ca>
Sent: Monday, June 13, 2016 9:37 AM
To: Servedio, Aimee
Subject: Fw: from Anna & William Pereira.....re:petition of signatures filed with the City today regarding 2 major developments

To Aimee (City Clerk),

Would you please enter this e-mail below (sent on June 10,2016 to the Mayor & City Manager) into your records as our appeal to see the Holton Project & Town Center proceed forward.

Thank you,
Anna & William Pereira

On Friday, June 10, 2016 6:29 PM, anna pereira <pereiraanna@yahoo.ca> wrote:

Hello Mr.Crawford & Mayor Palladeno,

As you know we are multiple property owners in Madeira Beach (since 2003).

We have been following the petition of signatures filed today with the City to stop 2 key proposed developments.

As you are aware if these developments are stopped then it will send a clear message that the City does NOT welcome development & this will certainly drive away investment.

As longtime investors that love & believe in Madeira Beach we will be among many who will question whether we will want to stay or just leave a City that has no intention to progress.

We are confident that a golden opportunity for all will be thrown away should these developments be stopped.

There are many like us in Madeira Beach who feel the same way.

Thank you for your efforts.

Anna & William Pereira

Servedio, Aimee

From: Steven Miller <smiller091@gmail.com>
Sent: Sunday, June 12, 2016 9:24 AM
To: Servedio, Aimee; Poe, Elaine; Hodges, Nancy; Shontz, Pat; Crawford, Shane; Lister, Terry; Palladeno, Travis
Subject: Development Agreement Contractual Liability Issues
Attachments: DevelopmentAgreementIssues.pdf

Aimee,

I am requesting the the attached letter be forwarded to each recipient before the BOC meeting June 14th for their review.

It is of a general nature and does not deal with any specific aspect of the agenda items to be discussed at that meeting.

If I am not present at the meeting, I request that it be read as part of the Citizen Comments of the first of the 2 items involving the development agreements for the Holton or Madeira Town Center projects which is addressed in that meeting

Regards,

Steven Miller
15329 Harbor Drive
Madeira Beach FL

June 11, 2016

Mayor, Commissioners, and City Manager

Subject: Development Agreement Contractual Liability Issues

As an interested citizen and registered voter in the city of Madeira Beach, I am again requesting that you formally acknowledge the suspension of Ordinance 2014-08 as of 8:03 AM June 10, 2016, the time at which a petition demanding such action and signed by 1025 individuals was received by the City Clerk.

By the clear terms of the city charter, as long as the city contests the sufficiency of the petition, the suspension must remain in effect until a COURT determines that the petition is insufficient. The city attorney is not a judge and does not have the authority to unilaterally declare the petition insufficient in either form or content (although that may be his opinion).

However, in case you decide to violate the charter and sign these agreements which rely on Ordinance 2014-08 for their legality, it is my opinion that none of the terms are legally enforceable and the developer can seek no recovery if the documents are later disavowed.

This discussion is extracted from a discussion of these issues at the Florida Bar website

<https://www.floridabar.org/divcom/jn/jnjournal01.nsf/Author/687C383E7B9CB893852572720051C099>

(the underline and bolding have been added for emphasis):

- On the second point, Florida courts have been reluctant to penalize local governments and require restitution even when the local government disavows its own agreement. In 1989, the Second District Court of Appeal refused to require the City of Largo to repay a developer money it had paid the city under a development agreement requiring the approval of a roadway project. The Second District held:
- With regard to the [c]ity's contractual liability, we agree with the position taken by the [c]ity that the subject contract is *ultra vires* and therefore unenforceable.... The [c]ity does not have the authority to enter into such a contract, which effectively contracts away the exercise of its police powers [W]here, as in this case, it is determined that a party has entered into a contract with a municipality that unlawfully limits the municipality's exercise of its police power and is therefore beyond the municipality's power to contract, the party cannot then recover money paid to the municipality under a theory of implied contract or quantum meruit. **A party entering into a contract with a municipality is bound to know the extent of the municipality's power to contract, and the municipality will not be estopped to assert the invalidity of a contract which it had no power to execute** Where the parties to such a contract are in pari delicto, the law will leave them where it finds them, and relief will be refused in the courts because of the public interest.⁵³
- As a threshold matter, to the extent that the settlement agreement may arise out of a denial of an application, the property owner/applicant can and should request that the local government agree to recall its prior decision and rehear the matter. However, such a decision by the local government must be made within 30 days of rendition of the local government's order. Once the local government has agreed to rehear and reconsider the matter, the applicant should begin to work with the local government's staff on rectifying any issues that were raised by the local government or neighborhood objectors. In addition, and provided that the applicant can show a public benefit, the applicant may also consider other conditions or restrictions including the dedication and construction of additional right-of-way, landscaping, design changes, etc.

- To the extent that the property owner desires to settle a pending suit against the local government, the property owner/applicant may approach the local government's staff and individual members of the government's governing body to discuss mutually acceptable methods by which the settlement agreement could be adopted. Although such provisions can be set forth in the agreement, the local government's discretion cannot be impeded either by requiring the local government to take a specific action or even to support the action in question. It is further recommended that any benefits being provided to the local government (e.g., dedications, mitigation payments, or other lawful improvements) be held in escrow pending the outcome of formal action by the local government. Finally, although a settlement agreement may be approved by resolution and not subject to the notice requirements for an ordinance, the development order being requested will need to be noticed and heard at a public hearing in a manner consistent with the applicable notice requirements.

Perhaps it would have been wise of both developers of the Holton and Karns projects and the Madeira Beach City Administration to have studied the Madeira Beach Town Center Special Area Plan more carefully. It generally expresses the legitimate desires of the residents of Madeira Beach to maintain and protect the existing character of the city. I think proposals in compliance with the stated goals of the SAP would have received a warm reception from them.

Please forward this information to the appropriate parties representing the developers although I am sure they are already aware of it.

Steven Miller
15329 Harbor Drive
Madeira Beach FI 33708

Servedio, Aimee

From: Steven Miller <smiller091@gmail.com>
Sent: Saturday, June 11, 2016 5:59 PM
To: Servedio, Aimee; Poe, Elaine; Hodges, Nancy; Shontz, Pat; Crawford, Shane; Lister, Terry; Palladeno, Travis
Subject: PD Zoning and Development Approval Criteria
Attachments: PDZoningandDevelopmentApproval (2).pdf

Aimee,

I am requesting the the attached letter be forwarded to each recipient before the BOC meeting June 14th for their review.

It is of a general nature and does not deal with any specific aspect of the agenda items to be discussed at that meeting.

I request it be read as part of the General Citizen Forum at that meeting if I am not present.

If it is not read as part of that forum, I request that it be read as part of the Citizen Comments of the first of the 3 items involving the Holton or Madeira Town Center which is addressed in that meeting

Regards,

Steven Miller
15329 Harbor Drive
Madeira Beach FL

June 11, 2016

Mayor, Commissioners, and City Manager

Subject: PD Zoning and Development Approval Criteria

As an interested citizen and registered voter in the city of Madeira Beach, I am again requesting that you formally acknowledge the suspension of Ordinance 2014-08 as of 8:03 AM June 10, 2016, the time at which a petition demanding such action and signed by 1025 individuals was received by the City Clerk.

By the clear terms of the city charter, as long as the city contests the sufficiency of the petition, the suspension must remain in effect until a COURT determines that the petition is insufficient. The city attorney is not a judge and does not have the authority to unilaterally declare the petition insufficient in either form or content (although that may be his opinion).

However, in case you decide to violate the charter and vote on the three agenda items which rely on Ordinance 2014-08 for their legality, I would point out that none of the items meet the necessary criteria for approval specified in the city ordinances Section 110-393 (Copied in part below). The items fail to meet the criteria specified in item (2) in that they do not comply with the Madeira Beach Town Center Special Area Plan - a formal planning document adopted in 2009 which states as its primary goal:

...ensure that the residential/family and beach community character of the City of Madeira Beach is maintained and protected...

While....(along with some other listed subordinate goals)

Encouraging an orderly and aesthetic mix of land uses by allowing new development and redevelopment that will enhance and protect the City's existing character;

The Special Area Plan is not to be ignored: (See the following extract).

Appendix D – Special Area Plans and the Countywide Rules

The Countywide Rules require that certain items be addressed prior to application of any Planned Redevelopment Future Land Use Plan map category at the local level.

4.2.7.5.1 Special Area Plans Required. A proposed amendment of the Countywide Plan Map to Residential Very High, Activity Center, Community Redevelopment District, Central Business District, or the Planned Redevelopment categories of Residential, Mixed Use, Commercial, or Industrial shall require a special area plan. Such special area plan shall be approved by official action of the legislative body of the local government in support of the proposed category, in a form sufficient to ensure compliance with the special area plan.

The opinion that these developments would drastically change the character of the community from residential/family and beach to tourist/commercial is shared by many of the constituents who elected you and whom you are supposed to represent. Of the 1025 signatures submitted in support of a petition to reconsider the ordinance which enables such a drastic change, over 900 have been validated as true registered voters in Madeira Beach.

The signers are fairly equally distributed across the four voting districts:

District 1 - Commissioner Lister:	of 760 eligible voters, 226 signed
District 2 - Commissioner Hodges:	of 740 eligible voters, 244 signed
District 3 - Commissioner Poe:	of 810 eligible voters, 253 signed
District 4 - Commissioner Shontz:	of 863 eligible voters, 206 signed

These projects, if developed in their current form, will change the character of our community. That is a fact which must be recognized. This change does not conform to the stated goal of the formal planning document which established the Madeira Beach Town Center in the first place. This nonconformance is a rational and defensible reason for denying approval of the Development Plans. I urge you to vote NO on each of these agenda items. Your constituents will remember your actions.

Steven Miller
15329 Harbor Drive
Madeira Beach FL 33708

Extracted from the Madeira Beach Code of Ordinances:

Sec. 110-393. - Review by board of commissioners.

In their analysis of the rezoning application and the proposed development plan submitted pursuant to this division, and prior to official action the board of commissioners shall consider the recommendation of the local planning agency and ensure the rezoning application is in conformance with the criteria listed in section 110-390.

The board of commissioners shall review the proposed development plan for compliance with the provisions of article II, site plans and the following general conditions:

(1)

Land uses within the development shall be appropriate in their proposed location, in their relationships to each other, and in their relationships with uses and activities on adjacent and nearby properties.

(2)

The development shall comply with applicable city plans and planning policies, and shall have a beneficial effect both upon the area of the city in which it is proposed to be established and upon the city as a whole.

(3)

Servedio, Aimee

From: Steven Miller <smiller091@gmail.com>
Sent: Friday, June 10, 2016 12:28 PM
To: Servedio, Aimee; Poe, Elaine; Hodges, Nancy; Shontz, Pat; Crawford, Shane; Lister, Terry; Palladeno, Travis
Subject: Suspension of Ordinance 2014-08

June 10, 2016

Mayor, Commissioners, and City Manager

Subject: Suspension of Ordinance 2014-08

As an interested citizen and registered voter in the city of Madeira Beach, I am requesting that you formally acknowledge the suspension of Ordinance 2014-08 as of 8:03 AM June 10, 2016, the time at which a petition demanding such action and signed by 1025 individuals was received by the City Clerk.

By the clear terms of the city charter, as long as the city contests the sufficiency of the petition, the suspension must remain in effect until a COURT determines that the petition is insufficient. The city attorney is not a judge and does not have the authority to unilaterally declare the petition insufficient (although that may be his opinion).

If the city desires to remove the suspension, go to court and have a JUDGE declare the petition insufficient.

Looking Forward To Your Response

Steven Miller
15329 Harbor Drive
Madeira Beach FL 33708

Servedio, Aimee

From: Peter Pisciotta <Peter.Pisciotta@finelineadvisors.com>
Sent: Friday, June 10, 2016 6:01 PM
To: Poe, Elaine
Subject: Continued support of you - thanks

Elaine – just a quick note of encouragement at a time when it must be easy to get a bit discouraged. Frankly, I probably [mildly] disagree with you more often than not, but I 100% support the democratic process and am saddened by the mud raking.

Thanks for your continued representation. I look forward to a time when the city can get back to business.

Peter Pisciotta
182 148th Ave E
Madeira Beach FL 33708

Servedio, Aimee

From: Steven Miller <smiller091@gmail.com>
Sent: Monday, April 25, 2016 5:30 PM
To: Servedio, Aimee; Poe, Elaine; Hodges, Nancy; Shontz, Pat; Crawford, Shane; Lister, Terry; Palladeno, Travis
Subject: Citizen Comment - 4/28/2016 Planning Commision Meeting
Attachments: PublicCommentSectionofNextRegularMeetingofthePlanningCommision4282016-MadeiraWayKarnsProjectDevelopmentApproval.pdf

City Clerk/City Manager

Please have the City Attorney read the attached statement as my input to the discussion of the Madeira Way/Karns Project at this meeting. Since there is no agenda posted yet, I am unable to provide an Agenda Item Number at this time,

Regards,

Steven Miller

April 23, 2016

City Manager and City Attorney

Subject: Planning Commission - Madeira Way/ Karns Project Discussion

I will be unable to attend the next regular meeting of the Planning Commission, currently scheduled for April 28, 2016. In my place I am requesting that the following comments be read uncensored into the minutes of the meeting as part of the Public Comments (if any) on the Karns Project Proposal. (Please advise me if this will not be read) :

Commissioners,

It is probably futile, but I feel I must at least make an effort to appeal to you in your roles as fellow residents of the City of Madeira Beach.

The attorneys are telling you that this is strictly a legal matter, presenting the developer's plan as something to which the law makes him entitled. Yes, he is entitled to present a plan and that plan must not exceed the maximums in density and height imposed by law. The maximums are just that - maximums.

The developer is taking the stance that he is starting from those maximums and graciously working down. The stance the city, through you as its representatives, should be starting from the current C3 zoning maximums and negotiating up. The city and the developer should not act as a team - pushing the developer's plans on the residents. The city in fact should in some way be an adversary of the developer, ensuring that his plans are not detrimental to the interests of the residents. The current City Administration seems to be confused in its proper role in this process. It has chosen not to represent the interests of the residents, preferring to align itself with the interests of the Developers, Merchants, and Property Owners.

In my reading of the Madeira Beach Special Area Plan, developed over time with actual input from the citizens, it is clear that the concept of PD zoning was introduced to provide "wiggle room" for future development. Future development plans would be allowed to exceed the new expanded C3 limits by some ,unfortunately unspecified, amount if necessary to promote development consistent with the Plan and if special benefits accrued to the residents of the city. This didn't mean that the purpose of the plan was to be ignored. The primary purpose of the SAP as directly stated : ...ensure that the residential/family and beach community character of the City of Madeira Beach is maintained and protected...

I lived in South Florida in the mid 70's to early 80's when the "South Beach" area of Miami was considered a "dump". The city government was the completely controlled by the developers who planned to raze the whole southern tip of Miami Beach - replacing the old Art Deco hotels with new modern high-rise hotels, massive condominiums, and expensive housing developments. Las Vegas on the Atlantic! The citizens stopped this thru the referendum process. (They even had the extra difficulty of amending their city charter to allow them to do it - the rights of the citizens of Madeira Beach to do so are already there!)

The end result was that the "dumpy" ambiance of South Beach was preserved. It is now probably the top destination for wealthy foreign tourists in Florida if not the whole United States.

*Law Offices of
James W. Denhardt
Attorneys at Law*

James W. Denhardt

Lauren Christ Rubenstein

*2700 First Avenue North
St. Petersburg, Florida 33713
Telephone (727) 327-3400
Facsimile (727) 323-0888*

June 8, 2016

Ms. Michell Orton, Director
Planning & Zoning Dept.
City of Madeira Beach
300 Municipal Drive
Madeira Beach, Florida 33708

RE: Angry Pepper 4COP Alcoholic Beverage License Application

Dear Ms. Orton:

Thank you for taking the time to meet with me and my associate, Lauren Rubenstein, Friday regarding the application for a 4COP alcoholic beverage license for the property located at 4330 Duhme Road ("Angry Pepper parcel").

During our meeting, you seemed to be fairly familiar with the history between the Angry Pepper parcel and my client's parcel ("REC Investments, Inc.") which is next door. However, when we began looking at the proposed parking plan for the Angry Pepper parcel that was part of the application for the 4COP license zoning approval, I got the impression from some comments you made that you were not intimately familiar with past zoning approvals as to parking and which spaces may be or may not be grandfathered.

Based on our review of the parking plan with you, it is my understanding that 17 on-site parking spaces (not including the bike rack spaces and boat slips) are being treated as grandfathered, and therefore not required to be Code compliant parking spaces pursuant to the current Codes of the City of Madeira Beach (except for the handicapped space).

I am attaching a copy of the zoning/parking approval for the Angry Pepper restaurant that was approved and signed by Ms. Lynn Rosetti on behalf of the City on January 10, 2014. As you will see, the proposed parking plan shows 12 spaces that were preexisting (10 spaces to the left as you enter the parcel from Duhme Road and two spaces in the back where there are old wheel stops). There is also a new parking space by the back deck, labeled A, for employee only parking per the plan. You will note that there is no space for a compact car in the back portion of the property, nor any parking spaces for compact cars along the perimeter of the building other than the employee only space.

Ms. Michell Orton, Director
Planning & Zoning Dept.
City of Madeira Beach
June 8, 2016
Page 2

The proposed parking plan is a major deviation from any previous parking plans. If you visit the site at this time and stand at the top of the handicapped ramp and look between the buildings, you can clearly see five wheel stops where five of the former parking places existed. However, several of those are now no longer usable, as the Angry Pepper was allowed to build the back deck area out onto land that previously had been used for parking.

The current application shows a number of parking spaces that simply did not exist previously. Had they previously existed, they would have been reflected on the 2014 parking plan approved by Ms. Rosetti. Therefore, under the Madeira Beach Code of Ordinances, all new, additional parking spaces shown on the application for parking submitted with the current 4COP application, including those labeled as compact parking and the two spaces in front of the building nearest Duhme Road are not grandfathered spaces, as they are new additions to the parking plan, and would need to be compliant with the Madeira Beach Code as to length, width, backup aisle space, etc.

I am also attaching the Florida Department of Environmental Protection Permit and Authorization for Angry Pepper that was issued in conjunction with the building of a four-slip commercial dock at 4330 Duhme Road. On page three, under Operating Conditions, paragraph three specifically states that the docking facility is limited to the mooring of four vessels. The DEP Permit also specifies on page three that the docks are for a maximum of four vessels, either motorized or non-motorized. Therefore, my client would object to the Angry Pepper being credited for five parking spaces that they allege they are entitled to based on having five boat slips. The Angry Pepper parcel misrepresented to the City in its 2014 parking plan that it had five boat slips (three motorized, two non-motorized), even though the Florida Department of Environmental Protection expressly permitted and authorized the existing commercial dock for only four boat slips, *both motorized and non-motorized*.

As I expressed to you at our meeting, the Angry Pepper parcel has continued to expand its business and the number of seats in its restaurant, despite having deficient parking. Based on its 4COP application, the current number of seats at the restaurant is 100. Based on the approved parking plan in 2014 (even counting five boat spaces when only four are authorized by the Florida DEP), 21 spaces exist on the Angry Pepper parcel and, therefore, the restaurant should be limited to 84 seats.

As you know, the neighboring parcel owned by REC Investments, Inc. has experienced significant issues with parking and traffic congestion that was a direct result of the Angry Pepper Restaurant continuing to expand and add seats, despite not having parking facilities on site to accommodate its patrons. The Angry Pepper was allowed to expand over the years based upon a misrepresentation to the City of Madeira Beach that it had the right to use the 35 spaces on the contiguous property to the north owned by my client, REC Investments, Inc. On the attached copy of the previous application from the Angry Pepper to the City of Madeira Beach, it

Ms. Michell Orton, Director
Planning & Zoning Dept.
City of Madeira Beach
June 8, 2016
Page 3

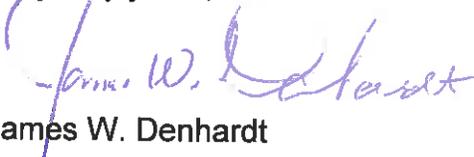
represented it had such a right to use those spaces. By an Order entered by the Honorable Anthony Rondolino dated May 13, 2015, it was judicially determined that the owner of the Angry Pepper real property does not have the right to use, and never had the right to use the property of REC Investments, Inc. for parking, during any of the time since Mr. Bumiller purchased the Angry Pepper parcel in 2005. The representations of Mr. Bumiller to the City of Madeira Beach which led to allowing the expansion to his restaurant simply were incorrect.

Additionally, it has been judicially determined that although the patrons of the REC Investments property have the right to utilize the portion of the handicapped ramp located on the Angry Pepper parcel, the patrons of the Angry Pepper parcel do not have the right to utilize the portion of the handicapped ramp located on the REC Investments, Inc. property. The Angry Pepper parcel simply does not have a handicapped ramp at this time, which makes it non-ADA-compliant. Due to liability concerns, REC Investments, Inc. is in the process of submitting an application for reconstruction of its handicapped ramp solely on its property. This will necessitate the Angry Pepper parcel constructing its own ADA compliant handicapped ramp on its parcel. Such is not shown on the current site plan/parking plan. The construction of the handicapped ramp will certainly necessitate the elimination of either a good portion of the building or structure, or construction over a substantial amount of the area currently listed as parking spaces on the site plan/parking plan. In addition, you also indicated that the handicapped parking space would need to be Code compliant, and even under the existing plan, relocating it in front of the building between the building and Duhme Road would require utilizing the entire driveway aisle for a Code compliant handicapped parking space.

In summary, this is an obvious overbuild situation on the land available, and the parking spaces available, even without considering what is going to be a required construction of a handicapped ramp, will not justify the seating requested.

In light of these observations, it seems premature for the Commission to be considering the application for a 4COP before the owner/operator has addressed the issues of a handicapped ramp, handicapped space and the deficient parking compared to the number of seats at the restaurant.

Very truly yours,



James W. Denhardt

cc: Thomas Trask, Esquire
Ms. Ruth Cabella
REC Investments, Inc.

JWD/law

Angry Pepper Restaurant - 4330 Duane Rd.

Parking Plan -

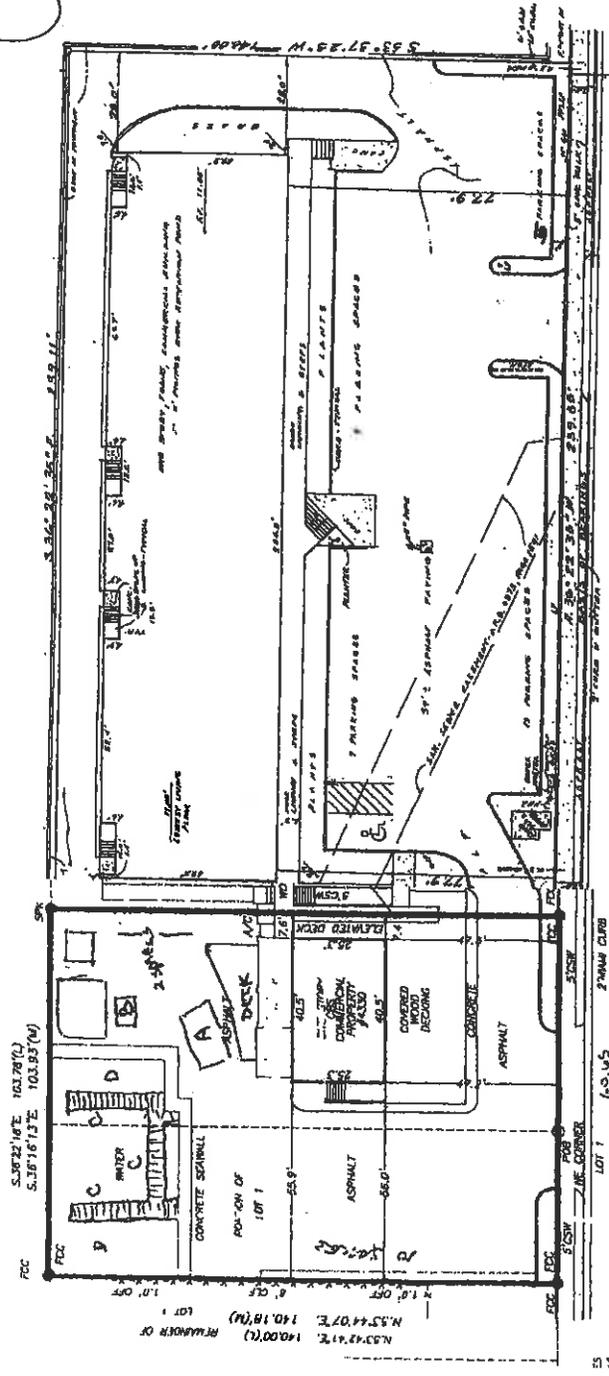
Zoning - Parking

Approved
Approved w/Conditions
Denial

CDME

City of Madeline Beach
Community Development Director

[Signature]
Date 1/10/2014



EXISTING PARKING: 50 SPACES

PROPOSED PARKING 59 SPACES AS FOLLOWS

- A) NEW STACKED EMPLOYEE ONLY SPACE (1 CREDIT)
- B) BIKE RACK (3 CREDIT)
- C) BOAT SLIPS THREE MOTORIZED (3 CREDITS)
- D) 2 NEW MOTORIZED (CANOE, SAH, etc) (2 CREDITS)

EXISTING SEATS PER TRAY: 75
ADDITIONAL SEATING UP TO 36 REQUESTED BY
PARKING. REQUESTING APPROXIMATELY 25 ADDITIONAL
SEATS; LEAVING 11 FUTONS SEATS (PER PARKING)

[Signature]
JAMES BAMILTON / OWNER



Florida Department of Environmental Protection

South West District Office
13051 N. Telecom Parkway
Temple Terrace, Florida 33637

Rick Scott
Governor

Jennifer Carroll
Lt. Governor

Herschel W. Vinyard Jr.
Secretary

Standard General Environmental Resource Permit

Permittee: Angry Pepper Waterside Smokeshack and Grill

Permit No: 52-0309992-001

Permit Issuance Date: June 7, 2012

AUTHORIZATIONS

Project Description

This permit is for the operation and maintenance of an existing 527-square-foot, four-slip commercial dock within an artificial canal, a Class III Florida Waterbody contiguous with Boca Ciega Bay Aquatic Preserve. This permit does not authorize any new construction at the facility.

The project described above may only be conducted 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.

State-owned Submerged Lands Authorization

As staff to the Board of Trustees, the Department has reviewed the activity described above and has determined that the activity is not located on submerged lands owned by the State of Florida. Therefore, your project is not subject to the requirements of Chapter 253, Florida Statutes (F.S.).

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.

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 homeowner's associations or 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. This permit does not relieve you from the requirements to obtain all other required permits or authorizations.

PROJECT LOCATION

The activities authorized by this permit are located at 4330 Duhme Road (Parcel ID 03-31-15-25146-000-0010), Madeira Beach, in Section 3, Township 31 South, Range 15 East, in Pinellas County.

PERMIT CONDITIONS

The activities described herein must be conducted in accordance with:

- **The Specific Conditions**
- **The General Conditions**
- **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 that the work is conducted in conformance with all the terms, conditions, and drawings. If you are utilizing a contractor, the contractor should also read and understand these conditions and drawings prior to commencing the authorized activities. Failure to comply with these conditions, 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 as specifically described herein.

SPECIFIC CONDITIONS

1. Submittals required herein (e.g., progress reports, as-built drawings, etc.) shall include the permittee's name and permit number 52-0309992-001 and shall be directed by e-mail to SW_ERP@dep.state.fl.us with a subject line of compliance permit number 52-030992-001, or by mail to:

Department of Environmental Protection
Southwest District

Angry Pepper Waterside Smokeshack and Grill
Permit No.: 52-0309992-001

Submerged Lands and Environmental Resource Program
13051 North Telecom Parkway
Temple Terrace, FL 33637-0926

CONSTRUCTION CONDITION

2. Within 90 days of permit issuance, the permittee shall provide photographs documenting the installation of the "Non-motorized Vessel Mooring Area" signs at the locations depicted on sheet 3 of 3.

OPERATING CONDITIONS (The permittee shall comply with the following operation conditions for the life of the facility.)

3. The docking facility is limited to the mooring of four vessels, with the slips defined on Sheets 2-3 of 3 of the attached permit drawings. The outer slips shall be limited to the mooring of non-motorized vessels as shown on Sheet 3 of 3 of the attached permit drawings.
4. There shall be a minimum 12-inch clearance between the deepest draft of the vessel (with the motor in the down position) and the top of submerged resources for all vessels associated with the use of the docking facility as measured at mean low water.
5. Fish cleaning stations shall not be allowed on structures over the water unless sufficient measures are in place (i.e., signage, sink screens, waste receptacles, etc.) to ensure that overboard discharges of trash and/or animal waste do not occur at the dock. The permittee shall submit a plan for Department review and approval prior to installation of any fish cleaning stations.
6. The handrails and "Non-motorized Vessel Mooring Area" signs defined on Sheet 3 of 3 of the project drawings shall be maintained for the life of the facility.
7. Boat maintenance or repair activities that require the removal of a vessel from the water, or removal of major portions of the vessel, including the engine, for purposes of routine repair or maintenance on site are prohibited over water at the facility, except where such activities are necessitated by emergency conditions which have resulted in or can result in the sinking of a vessel. Specifically prohibited shall be hull scraping, stripping, sanding, painting, recoating, and other maintenance or repair activities that may result in degradation of water quality from discharges or release of potential contaminants into waters of the state.
8. The slips shall not be occupied by liveaboards. A liveaboard is defined as a vessel docked at a facility and inhabited by a person or persons for any five (5) consecutive days or a total of ten (10) days within any thirty (30) day period.
9. Fueling facilities shall not be provided at the docking facility.

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 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 that does not cause violations of state water quality standards. The permittee shall implement best management practices for erosion and pollution control to prevent violation 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 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 waterbody 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 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 days of sampling and total monthly volume discharged from the property or into surface waters of the state.
5. 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 surface waters, a written dewatering plan must either have been submitted and approved with the permit application or submitted to the Department as a permit modification 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 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 beneficial occupancy or use of the development being served by this system.
9. The following shall be properly abandoned and/or removed in accordance with the applicable regulations:
 - a. Any existing wells in the path of construction shall be properly plugged and abandoned by a licensed well contractor.
 - b. Any existing septic tanks on site shall be abandoned at the beginning of construction.
 - c. Any existing fuel storage tanks and fuel pumps shall be removed at the beginning of construction.
10. 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 runoff from the property and to minimize dewatering of offsite property.
11. At least 48 hours prior to commencement of activity 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.
12. 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 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 that phase or portion of the system to a local government or other responsible entity.
13. Within 30 days after completion of construction of the permitted activity, 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 "Request for Transfer of Environmental Resource Permit Construction Phase to Operation Phase" (Form 62-343-900(7), F.A.C.). Additionally, if deviations from the approved drawings are discovered during the certification process, the certification must be accompanied by a copy of the approved permit drawings with deviations noted.

14. 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.
15. 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 the permit to the responsible operation and maintenance entity approved by the Department, if different from the permittee. Until a transfer is approved by the Department pursuant to Section 62-343.110(1)(d), F.A.C., the permittee shall be liable for compliance with the terms of the permit.
16. 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.
17. 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.
18. 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 40D-40, F.A.C.
19. The permittee is hereby advised that Section 253.77, F.S., states that a person may not commence any excavation, construction, 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, easement, or other form of consent authorizing the proposed use. Therefore, the permittee is responsible for obtaining any necessary authorizations from the Board of Trustees prior to commencing activity on sovereignty lands or other state-owned lands.

20. 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 authorized by the permit or any use of the permitted system.
21. 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.
22. The permittee shall notify the Department in writing within 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 ownership or transfers of a permit are subject to the requirements of section 62-343.130, F.A.C. The permittee transferring the permit shall remain liable for any corrective actions that may be required as a result of any permit violations prior to such sale, conveyance or other transfer.
23. 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.
24. 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.
25. The permittee shall immediately notify the Department in writing of any previously submitted information that is later discovered to be inaccurate.

NOTICE OF RIGHTS

This permit is hereby final 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. The procedures for petitioning for a hearing are set forth below.

Mediation is not available.

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. 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.

Because the administrative hearing process is designed to re-determine final agency action on the application, the filing of a petition for an administrative hearing may result in a modification of the permit or even a denial of the application. If a sufficient petition for an administrative hearing or request for an extension of time to file a petition is timely filed, this permit automatically becomes only proposed agency action on the application, subject to the result of the administrative review process. Accordingly, the applicant is advised not to commence construction or other activities under this permit until the deadlines noted below for filing a petition for an administrative hearing, or request for an extension of time has expired.

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 time 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. 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. If a request is filed late, the Department may still grant it upon a 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.

In the event that 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. Any intervention 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.

In accordance with Rule 62-110.106(3) F.A.C., petitions for an administrative hearing by the applicant must be filed within 21 days of receipt of this written notice. Petitions filed by any persons other than the applicant, and other than those entitled to written notice under section 120.60(3) of the Florida Statutes must be filed within 21 days of publication of the notice or within 21 days of receipt of the written notice, whichever occurs first.

Under section 120.60(3) of the Florida Statutes, however, any person who has asked the Department for notice of agency action may file a petition within 21 days of receipt of such notice, regardless of the date of publication.

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 person's right to request an administrative determination (hearing) under sections 120.569 and 120.57 of the Florida Statutes.

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 that 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, F.A.C. Under Sections 120.569(2)(c) and (d), F.S., a petition for administrative hearing must be dismissed by the agency if the petition does not substantially comply with the above requirements or is untimely filed.

This action is final and effective on the date filed with the Clerk of the Department unless a petition is filed in accordance with the above. Upon the timely filing of a petition this order will not be effective until further order of the Department.

This permit constitutes an order of the Department. The applicant has the right to seek judicial review of the order under Section 120.68, F.S., by the filing of a notice of appeal under Rule 9.110 of the Florida Rules of Appellate Procedure with the Clerk of the Department in the Office of General Counsel, 3900 Commonwealth Boulevard, Mail Station 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 within 30 days from the date when the final order is filed with the Clerk of the Department. The applicant, or any party within the meaning of Section 373.114(1)(a), F.S., may also seek appellate review of this order before the Land and Water Adjudicatory Commission under Section 373.114(1), 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 final order is filed with the Clerk of the Department.

Executed in Hillsborough County, Florida.

STATE OF FLORIDA DEPARTMENT
OF ENVIRONMENTAL PROTECTION



William L. Vorstadt
Program Administrator
Submerged Lands and Environmental
Resource Program
Southwest District

WLV/ml

Attachments:

Application for transfer of an ERP /62-343,900(8) (1 page)
Project Drawings and Design Specs., (3 pages)

Copies furnished to:

U.S. Army Corps of Engineers
File

CERTIFICATE OF SERVICE

The undersigned hereby certifies that this permit, including all copies, was mailed before the close of business on 6/17/12, 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.



Clerk

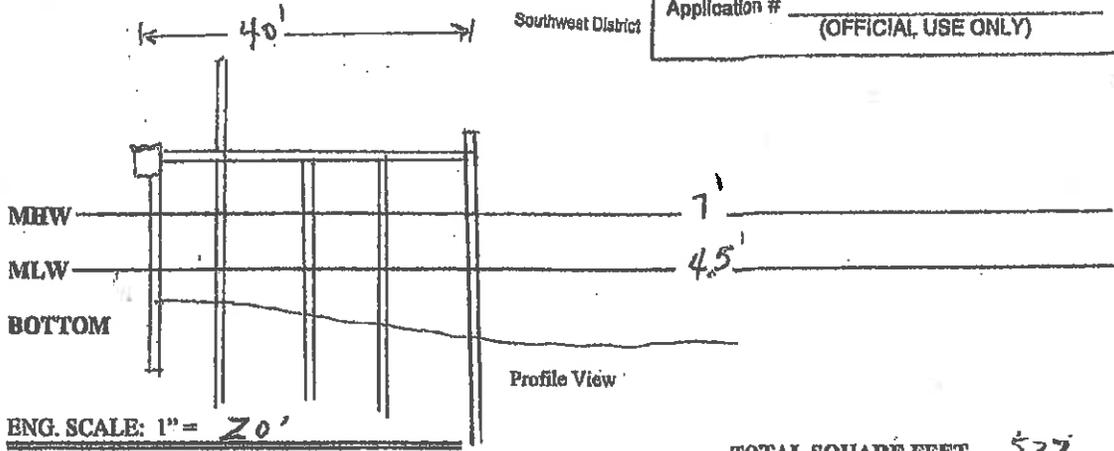
Date

MULTI-USE / COMMERCIAL DOCK

MAR. 12 2012

Southwest District

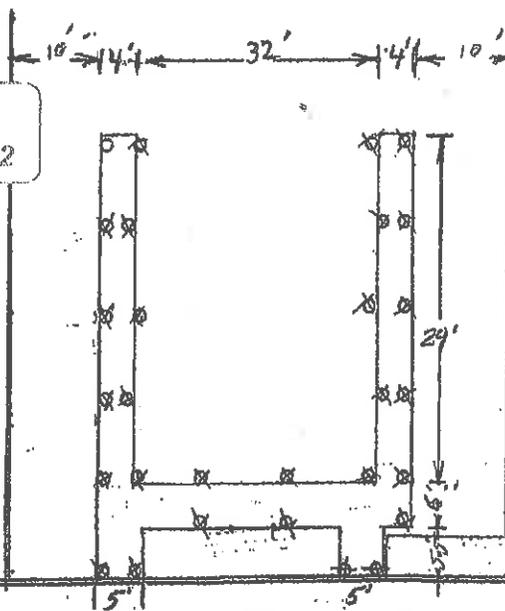
Application # _____
(OFFICIAL USE ONLY)



TOTAL SQUARE FEET	527
NEW SQUARE FEET	527
WATERWAY WIDTH	60'
WATERFRONT WIDTH	60'

Z →

Plan View
(applicant and adjacent docks)



APPROVED

By sw. erp at 4:33 pm, Jun 07, 2012

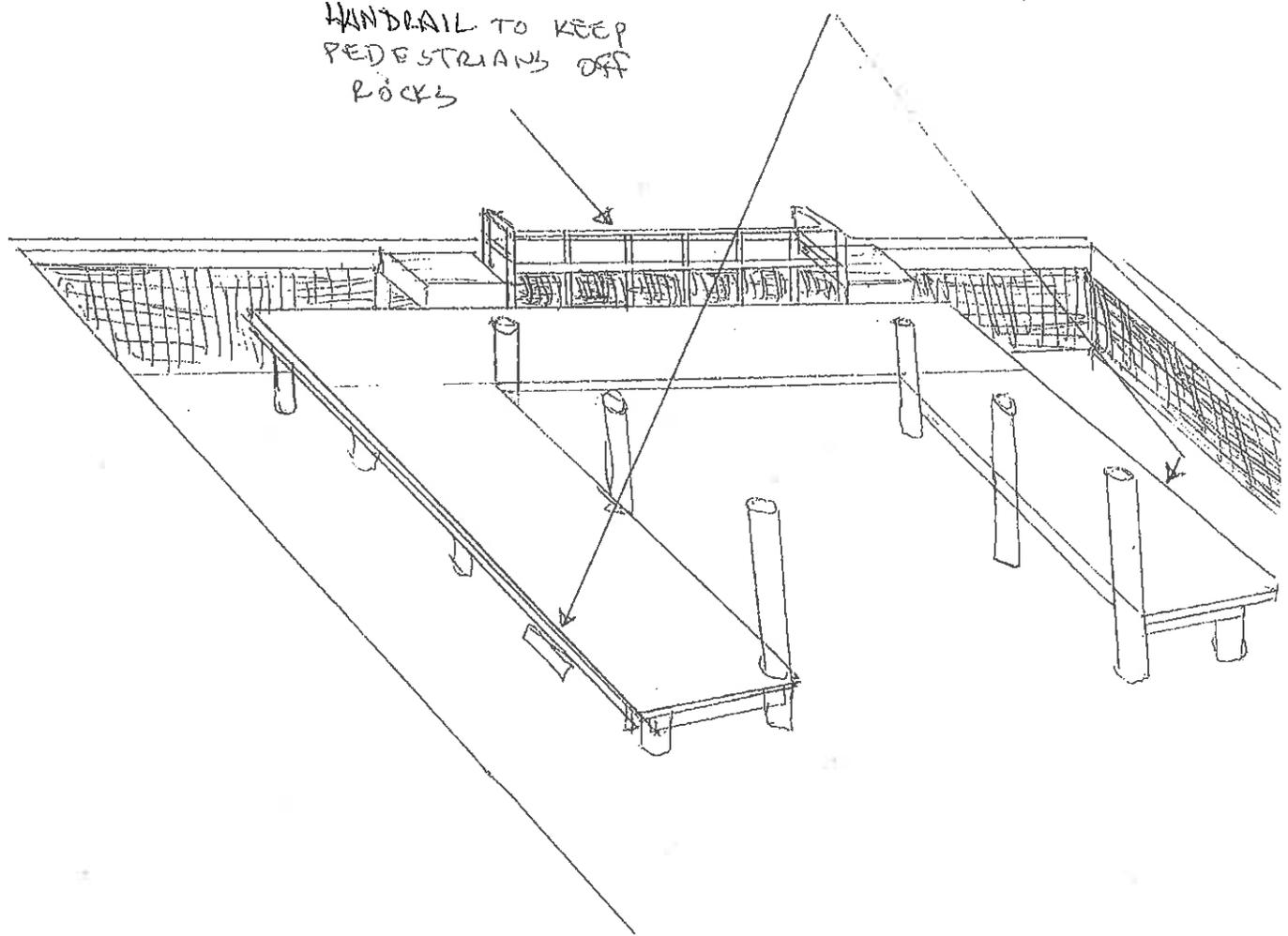
Municipality Approval	Water and Navigation Approval	Engineer's Seal

TO EXISTING DOCK

APPROVED
By sw_erp at 4:33 pm, Jun 07, 2012

SIGNAGE !
NON-MOTORIZED
SMALL CRAFT ONLY

HANDRAIL TO KEEP
PEDESTRIANS OFF
ROCKS





City of Madeira Beach
300 Municipal Drive
Madeira Beach, FL 33708
Phone: (727) 391-9951

MEMORANDUM

DATE: June 10, 2016

TO: Mayor Travis Palladeno
Vice-Mayor Pat Shontz
Commissioner Terry Lister
Commissioner Nancy Hodges
Commissioner Elaine Poe

FROM: Michelle Orton, Planning and Zoning Director *MO*

RE: Angry Pepper Waterside

On June 8, 2016, our office received a hand delivered letter from the Law Offices of James W. Denhardt regarding the Angry Pepper Waterside restaurant. The Angry Pepper restaurant is located at 4330 Duhme Road and the Applicant has applied for a 4COP alcoholic beverage license. Currently, the applicant has a 2COP alcoholic beverage license.

In response to Mr. Denhardt's letter staff provides the following:

1. Required Parking spaces. The 12 parking spaces are grandfathered as they were designed as parking spaces when the original structure was built in 1986 pursuant to Property Appraiser records. Since that time the Applicant does have approval for 4 boat slips from the Florida Department of Environmental Protection as noted in Mr. Denhardt's letter. The City of Madeira Beach allows for additional credits pursuant to Sec. 110-971(b) "a credit of one parking space for every on-site customer boat slip provided" and "a credit of one parking space for every bicycle stall provided, up to a total of three credits". Therefore, the boat and bicycle parking spaces provide an additional 7 parking spaces. In addition, the Applicant is permitted 4 tandem parking spaces for employees and 1 compact parking spaces. There will also be a handicap space that is being brought up to code. The Applicant, as noted on their application, will have 75 inside seats and 25 outside seats. Pursuant to Sec. 110-971 (a) 1 parking space is required per 4 seats of a restaurant use. The total amount of parking on-site required is 25 parking spaces.
2. Approval of the zoning/parking on January 10, 2014. The parking Ms. Rosetti approved was after she received the easement documents signed on June 20, 1986 granting

"a non-exclusive perpetual easements for drainage, parking, handicap ramp, ingress, egress and regress in, over and upon said property described in Exhibit "A", hereto, for the use and benefit of the Grantee for the purpose of parking, ingress, egress and regress to and from the property described in Exhibit "B" hereto, and the adjacent public or private streets." see attached.

June 10, 2013

Page 2 of 2

Ms. Rosetti approved the site plan with the parking as described and shown on the attached document. It was not until May 13, 2015 that the Honorable Anthony Rondolino, Circuit Judge declared the easements "to be void and of no effect."

3. Parking Spaces provided. As the Applicant has sufficient parking for the number of seats additional parking is not required.
4. Handicap ramp. According to the survey dated May 28, 2002 the handicap ramp is 4.2 feet on the Applicant's property and only 1.6 feet into the REC Investments property. The Applicant has agreed to move the ramp so that it is entirely located within their lot. The handicap ramp will be ADA compliant along with the ADA compliant parking space.

Staff believes the Applicant has shown evidence of their endeavor to follow City code regarding parking. Staff also recommends approval of a 4COP alcohol beverage license.

Attachments: Easement recorded in 1986
Site Plan approved in 2014

86137700
86234842

O.R. 6254 PAGE 936

EASEMENT

O.R. 6332 PAGE 327

D1 Cash 11 Chg
40 Rec 17.00
41 DS
43 Int
Tel 17.00

This Easement made this 20 day of June, 1986, by
GEORGE TAGARAS, a married man, and CHRISTOPHER GIBBS, a single
man, 516 Circle Drive, Largo, Florida 33540 (hereinafter
"Grantor") to JOSEPH TELESE, a married man, 7024 Central Avenue,
St. Petersburg, Florida 33707, his successors or assigns
(hereinafter "Grantee").

married
CT

WITNESSETH:

15 15802024 40 1. 23 JUN 86
40 17.00
TOTAL 17.00 CHK

WHEREAS, Grantor is the owner in fee simple of certain
lands in Pinellas County, Florida, more particularly described in
Exhibit "A" attached hereto and incorporated herein by reference,
which property is not the homestead of the Grantor nor is it
adjacent to the homestead of Grantor; and,

Handwritten notes on left margin

WHEREAS, Grantee is the owner in fee simple of certain
lands in Pinellas County, Florida, more particularly described in
Exhibit "B" attached hereto and incorporated herein by reference,
which property is not the homestead of Grantee nor is it adjacent
to the homestead of Grantee; and,

060086
40 17.00
TOTAL 17.00 CHK

WHEREAS, Grantee has requested and Grantor is desirous
of granting unto Grantee, his successors or assigns,
non-exclusive perpetual easements in, over and upon the Grantor's
property described in Exhibit "A", hereto, for the purpose of *drainage*
parking, ingress, egress and regress to and from Grantee's
property as described in Exhibit "B", hereto, and the adjacent
public or private streets in accordance with the terms and
conditions set forth hereinafter.

Handwritten notes on left margin

NOW, THEREFORE, in consideration of the sum of Ten and
No/100 Dollars (\$10.00) and other good and valuable
consideration, in hand paid, the receipt and sufficiency of which
is hereby acknowledged, the parties hereto agree as follows:

1. Recitals: The foregoing recitals are true and
correct.

2. Grant Of Easement: The Grantor hereby grants,
creates and imposes upon the property described in Exhibit "A",
hereto, a non-exclusive perpetual easement for parking, ingress,
drainage *handicap ramp*

This Instrument prepared by AND TO BE RETURNED TO:
HOWARD P. ROSS
Howard P. Ross, Et Al, Attorneys at Law
P.O. Box 41100 590 Tyrone Boulevard
St. Petersburg Florida 33743

D1 Cash 11 Chg
40 Rec 17.00
41 DS
43 Int
Tel 17.00

CT

egress and regress in, over and upon said property described in Exhibit "A", hereto, for the use and benefit of Grantee for the purpose of parking, ingress, egress and regress to and from the property described in Exhibit "B", hereto, and the adjacent public or private streets.

3. Permanent Servitudes: Subject to the terms and conditions set forth herein, the provisions of this agreement shall constitute permanent servitudes upon the lands described in Exhibit "A", hereto, for the benefit of the lands described in Exhibit "B", hereto, and shall be binding upon and inure to the benefit of the parties hereto, their respective heirs, successors, assigns or grantess.

The terms and conditions of this Easement shall be covenants running with the land and be binding upon and inure to the benefit of the parties hereto, their respective heirs, successors or assigns.

IN WITNESS WHEREOF, the parties hereto have caused these presents to be executed and delivered the day and year first above written.

Signed, sealed and delivered
in our presence:

Howard P. Ross
Janice Sparks

George Tagaras (SEAL)
Christopher Gibbs (SEAL)

"GRANTOR"

STATE OF FLORIDA)
COUNTY OF PINELLAS)

The foregoing Easement was acknowledged before me this 20 day of June, 1986, by GEORGE TAGARAS and CHRISTOPHER GIBBS for the uses and purposes expressed therein.

Howard P. Ross
Notary Public

My Commission Expires:



DELETE

~~Beginning at the Northeast corner of Lot 1 as recorded on the REPLAT OF BLOCKS 3 AND 4 EDGEWATER ESTATES UNIT NO. 12, according to the plat thereof as recorded in Plat Book 48, Page 29, Public Records of Pinellas County, Florida (being the Point of Beginning) and run N.36°22'35"W., 60.79 feet; thence S.53°37'25"W., 140.00 feet; thence S.36°22'35"E., 103.90 feet; thence N.53°42'41"E., 140.00 feet; thence N.36°22'35"W., 43.11 feet to the Point of Beginning.~~

REPLACE WITH

LEGAL DESCRIPTION
TEGARAS & GIBBS PARCEL

For a Point of Beginning Commence at the Northeast Corner of Lot 1 as recorded on the REPLAT OF BLOCKS 3 and 4 EDGEWATER ESTATES UNIT NO. 12, according to the plat thereof as recorded in Plat Book 48, Page 29, Public Records of Pinellas County, Florida, run N.36°22'29" W., 60.65 feet; thence South 53°43'01" W. 140.00 feet; thence South 36°22'35" E., 103.96 feet; North 53°43'01"E. 140.00 feet; thence North 36°22'29"W., 43.31 Feet; to the Point of Beginning.

EXHIBIT A

O.R. 6254 PAGE 939

O.R. 6332 PAGE 330

DELETE

~~Beginning at the Northeast corner of Lot 1 as recorded on the REPLAT OF BLOCKS 3 AND 4 EDGEWATER-ESTATES UNIT NO. 12, according to the plat thereof as recorded in Plat Book 48, Page 29, Public Records of Pinellas County, Florida run N.36°22'35"W., 60.79 feet to the Point of Beginning; thence continue N.36°22'35"W., 239.14 feet; thence S.53°37'25"W., 140.00 feet; thence S.36°22'35"E., 239.14 feet; thence N.53°42'41"E., 140.00 feet to the Point of Beginning.~~

REPLACE WITH

LEGAL DESCRIPTION
TELESE PARCEL

Begin at the Northeast corner of Lot 1, as recorded on the REPLAT OF BLOCKS 3 AND 4 EDGEWATER ESTATES UNIT NO. 12, according to the plat thereof, as recorded in Plat Book 48, Page 29, Public Records of Pinellas County, Florida, run N 36°22'29" West 60.65 feet to the Point of Beginning; thence continue N 36°22'29" West 239.35 feet; thence S 53°37'23" West, 140.00 feet thence S.36°22'35" East 239.11 feet; thence N 53°43'01" East, 140.00 feet to the Point of Beginning.

EXHIBIT B

Angry Pepper Restaurant - 4330 Duhme Rd.

- Parking Pbn -

Zoning - Parking

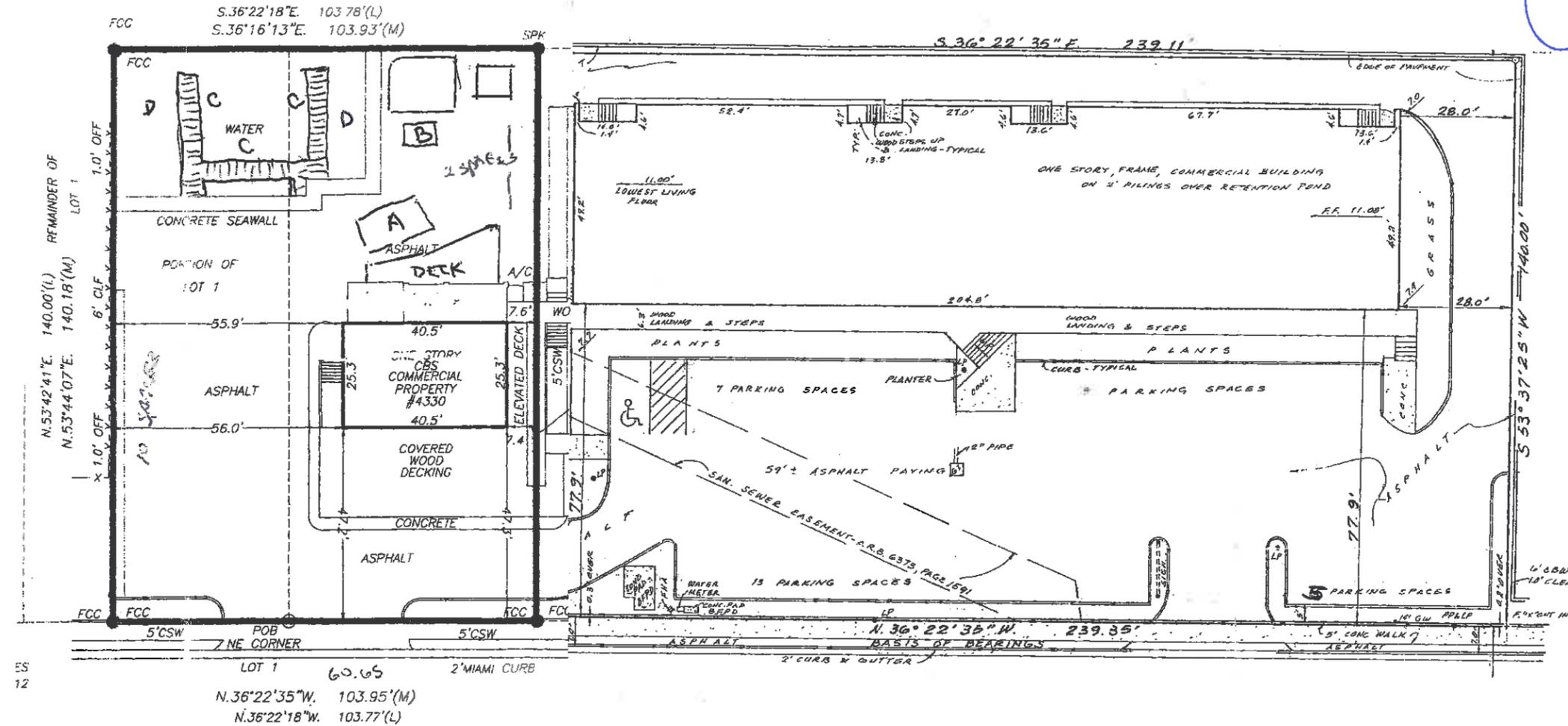
- Approved
- Approved w/Conditions
- Denied



City of Madeira Beach

[Signature]
Community Development Director

1/10/2014
Date



EXISTING PARKING: 50 SPACES

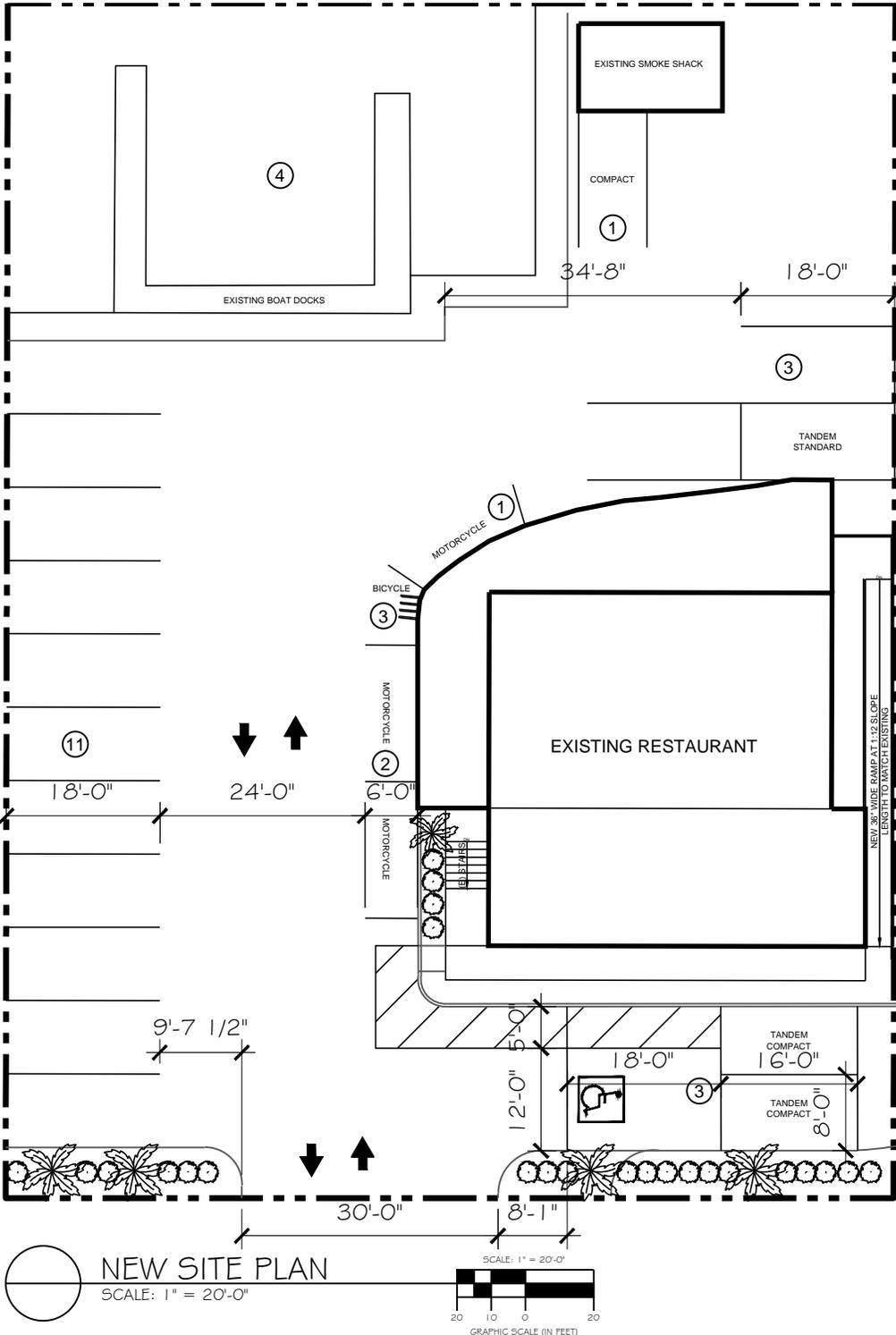
PROPOSED PARKING 59 SPACES AS FOLLOWS

- A) NEW STACKED EMPLOYEE ONLY SPACE (1 CREDIT)
- B) BIKE RACK (3 CREDIT)
- C) BOAT SLIPS THREE MOTORIZED (3 CREDITS)
- D) 2 NON MOTORIZED (CANOE, SAIL, ETC) (2 CREDITS)

EXISTING SEATS PER TAX: 75

ADDITIONAL SEATING UP TO 36 REQUESTED BY PARKING. REQUESTING APPROXIMATELY 25 ADDITIONAL SEATS; LEAVING 11 FUTURE SEATS (PER PARKING)

[Signature]
JAMES B. MILLER / OWNER



PARKING CALCULATIONS:

4 EXISTING BOAT SLIPS =	16 SEATS
14 STANDARD SPACES =	56 SEATS
3 COMPACT SPACES =	12 SEATS
1 HDCP SPACE =	4 SEATS
3 NEW MOTORCYCLE SPACES =	6 SEATS
3 NEW BICYCLE SPACES =	12 SEATS
TOTAL =	100 SEATS

SITE PLAN FOR:
"THE ANGRY PEPPER"
 4330 DUHME ROAD
 MADIERA BEACH, FL 33708
 PIN#: 03-31-15-25146-000-0010

*Law Offices of
James W. Denhardt
Attorneys at Law*

James W. Denhardt

Lauren Christ Rubenstein

*2700 First Avenue North
St. Petersburg, Florida 33713
Telephone (727) 327-3400
Facsimile (727) 323-0888*

June 10, 2016

Ms. Michell Orton, Director
Planning & Zoning Dept.
City of Madeira Beach
300 Municipal Drive
Madeira Beach, Florida 33708

RE: Angry Pepper 4COP Alcoholic Beverage License Application

Dear Ms. Orton:

Thank you for speaking with me this morning. As we discussed, I am having difficulty understanding how the determination by Lynn Rosetti in 2014, a copy of which I forwarded to you along with my letter on Wednesday, which established grandfathered parking at that time could now be altered to allow even more parking, without all such parking being Code compliant in accordance with the current provisions of the Madeira Beach Code. Such application at that time claimed that there were 50 existing spaces. However, that application was based upon the incorrect assertion that Mr. Bumiller had the right to use 35 spaces on the adjacent REC Investments, Inc. property, which has now been judicially determined that Mr. Bumiller never had the right to claim. Such application at that time only reflected 15 spaces which Mr. Bumiller, the property owner, claimed were currently existing grandfathered parking spaces.

The application at that time reflected five proposed spaces for vessels, when it has now been shown that the DEP application clearly limited the dock to four vessels, both motorized and non-motorized. That application did not deduct the three out of five parking spaces in the rear where the deck was allowed to be constructed over such three parking spaces. The fact that such parking spaces no longer exist can clearly be seen by visiting the premises, as the five curb stops are still lined up against the REC Investments, Inc. property, but the deck is built over the top of three of those curb stops.

Deducting the 35 spaces on the REC Investments, Inc. property from the application, which spaces it has been shown Mr. Bumiller never had the right to claim, deducting the one

Ms. Michell Orton, Director
Planning & Zoning Dept.
City of Madeira Beach
June 10, 2016
Page 2

vessel space that it has now been shown Mr. Bumiller never had the right to claim, and deducting the three spaces over which the deck was allowed to be built, from the 59 parking spaces that Mr. Bumiller showed were "proposed," would leave no more than 20 spaces, even assuming no additional construction on the site, no requirement of a Code compliant handicapped parking space on the site, or no requirement of compliance with the Madeira Beach Code as to a "off-street loading space."

I understand that the applicant is in the process of designing and submitting a plan for an ADA compliant handicapped ramp located entirely on the Angry Pepper property, as the Angry Pepper no longer has the right to utilize the handicapped ramp located on the REC Investments property. Without seeing the design and plan, it is extremely difficult for me to envision how, on such a small parcel with very limited area not occupied by a structure, that such handicapped ramp could be constructed without taking away some of any existing parking that might be considered grandfathered. In addition, an ADA compliant handicapped parking space is required on the Angry Pepper parcel, and it does not appear that a parking space of sufficient width is reflected on the applicant's current plan.

The applicant also does not reflect an off-street loading space in compliance with the Madeira Beach Code. Although the applicant may assert that the area of parking to the south of the building (where he now shows not only the parking spaces along the south property line of the parcel, but also proposed parking spaces adjacent to the building) was somehow grandfathered for loading spaces of delivery vehicles, that simply is not the case. Attached are two photographs showing where the deliveries were always made to the Angry Pepper by the delivery vehicles entering the curb cut on the REC Investments property and driving to the south through what was formerly the common ingress/egress between the two parcels, and parking half on the Angry Pepper property and half on the REC Investments property, to deliver food, beer and wine. That area no longer exists, and it is submitted that any new area reflected for off-street loading would need to be compliant with the provisions of the Madeira Beach Code.

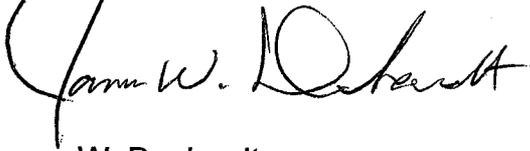
As I indicated on the phone, I recognize that the issues as to an alcoholic beverage license and whatever parking is considered to be grandfathered or allowed are somewhat separate. However, they are also very related, in that the proposed seating plan will be shown on the alcoholic beverage application submitted to the Florida Division of Alcoholic Beverages, and the City would be signing off on that application as to the number of seats to be allowed.

I am not sure of the time limit policy on comments at meetings of the City Commission of Madeira Beach, but since this matter is a site-specific determination by the City Commission, and applies criteria established by ordinance in the Land Development Code

Ms. Michell Orton, Director
Planning & Zoning Dept.
City of Madeira Beach
June 10, 2016
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to the application both as to the requested alcoholic beverage use and as to any determination that might be made, directly or indirectly, as to established grandfathered parking, handicapped ramp, handicapped parking space, off-street loading space, or other issues, I would submit that it is quasi judicial. Accordingly, as the representative of an adjacent, contiguous and directly impacted property owner, we would request longer than three minutes for our comments and presentation, but doubt that we would require anywhere near 15 minutes.

Very truly yours,

A handwritten signature in black ink, appearing to read "James W. Denhardt". The signature is written in a cursive style with a large, sweeping initial "J".

James W. Denhardt

cc: Thomas Trask, Esquire
Ms. Ruth Cabella
REC Investments, Inc.

JWD/dh

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10-0

04 29 2014



DEF
10-P

MUR
PEPPER
WATERSIDE
SMOKESHACK
& GRILL

Blue water bottle label

Blue water bottle label

6/6/16

Whom It May Concern.

I approve the alcoholic license
for Angry Pepper Waterside located
at 4330 Dukme Rd.

Sincerely,

Joseph Klein

*Law Offices of
James W. Denhardt
Attorneys at Law*

James W. Denhardt

Lauren Christ Rubenstein

*2700 First Avenue North
St. Petersburg, Florida 33713
Telephone (727) 327-3400
Facsimile (727) 323-0888*

June 14, 2016

Mayor Travis Palladeno
Vice Mayor Pat Shontz
Commissioner Terry Lister
Commissioner Nancy Hodges
Commissioner Elaine Poe
City of Madeira Beach
300 Municipal Drive
Madeira Beach, Florida 33708

RE: Angry Pepper 4COP Alcoholic Beverage License Application

Dear Mayor Palladeno and Board of Commissioners:

I represent REC Investments, Inc., and Century 21 Real Estate Champions, who owns the parcel immediately adjacent to the Angry Pepper Waterside, and who operates the adjacent business. REC Investments, Inc. objects to Angry Pepper's Application for a 4COP Alcoholic Beverage License and in support thereof would offer the following facts:

REC Investments, Inc. owned the property next door long before it became the Angry Pepper Waterside. When the current owner, Mr. James Bumiller, bought what is now the Angry Pepper, it was being operated as a small, open air fruit stand.

When the parcels (REC Investments, Inc.'s parcel and Angry Pepper's parcel) were originally developed, they were developed as one site plan with some common ingress and egress driveways. In 1986, two easements were recorded in the Official Records. One in favor of REC Investments, Inc.'s parcel, which would allow the owner of its parcel to park on Angry Pepper's parcel, ingress and egress between each parcel, share the handicapped ramp, and various other functions. That easement still exists today in favor of REC Investments, Inc. Another easement was recorded in favor of the Angry Pepper parcel for the purpose of parking, ingress/egress, handicapped ramp, etc. on REC Investment, Inc.'s parcel. That easement was abolished by a Quit Claim Deed in 1995,

Mayor Travis Palladeno
Vice Mayor Pat Shontz
Commissioner Terry Lister
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Commissioner Elaine Poe
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when the previous owner of the Angry Pepper parcel Quit Claimed all his interest and rights away in the REC Investments, Inc. parcel. The effect of this Quit Claim Deed was confirmed by an Order for Partial Summary Judgment entered by Chief Judge Anthony Rondolino on May 13, 2015. That Order is attached as Exhibit A. That Order establishes that as of 1995, when the Quit Claim Deed was executed, the owner of the Angry Pepper parcel no longer had any easement rights for parking, ingress/egress, or any other rights that originally may have existed under the easement recorded in 1986.

Notwithstanding that the easement rights had been abolished in favor of the Angry Pepper parcel back in the 1990s, the Angry Pepper parcel, under the operation of Mr. Bumiller, continually represented to the City of Madeira Beach that it had the right to park on the REC Investments, Inc. parcel in support of its applications to expand its use and its number of seats. Attached as Exhibit B is a copy of the Zoning/Parking Approval for the Angry Pepper restaurant that was approved and signed by Ms. Lynn Rosetti on behalf of the City on January 10, 2014. As you will see, the proposed parking plan shows 12 spaces that were preexisting (10 spaces to the left as you enter the parcel from Duhme Road and 2 spaces in the back where there are old wheel stops). There was also a new parking space by the back deck, labeled A, for employee only parking per the plan. You will note that there is no space for a compact car in the back portion of the property, nor any parking spaces for compact cars along the perimeter of the building other than the employee only space. Such application at that time claimed that there were 50 existing spaces. However, that application was based upon the incorrect assertion that Mr. Bumiller had the right to use 35 spaces on the adjacent REC Investments, Inc. property. Based on the proposed parking plan, even Mr. Bumiller back in 2014 acknowledged that there were only 15 grandfathered spaces on his property. With his proposed plan in 2014, he would be covering up 3 of the grandfathered spaces with a new deck, leaving 12 grandfathered spaces.

The 2014 parking application (Exhibit B) at that time reflected 5 new proposed spaces for vessels, but a copy of the DEP permit clearly limits the dock to 4 vessels (see page 3, paragraph 3), both motorized and non-motorized. The DEP permit is attached hereto and incorporated herein as Exhibit C. The application also showed 3 new bicycle spaces, which is equal to 3 more parking spaces. Additionally, the application did not deduct the 3 out of the 5 parking spaces in the rear where the deck was allowed to be constructed over such 3 parking spaces. The fact that such parking spaces no longer exist can clearly be seen by visiting the premises, as the 5 curb stops are still lined up against the REC Investments, Inc. property, but the deck is built over the top of 3 of those curb stops.

Mayor Travis Palladeno
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Deducting the 35 spaces on the REC Investments, Inc. property from the application, which spaces it has been shown Mr. Bumiller never had the right to claim, deducting the one vessel space that it has now been shown Mr. Bumiller never had the right to claim, and deducting the 3 spaces over which the deck was allowed to be built, from the 59 parking spaces that Mr. Bumiller showed were "proposed" on the attached parking plan, would leave no more than 20 spaces, even assuming no additional construction on the site, no requirement of a Code compliant handicapped parking space on the site, or no requirement of compliance with the Madeira Beach Code as to an "off-street loading space." Those 20 spaces would allow a maximum of 80 seats per City Code.

Under Madeira Beach City Code, Section 110-93(4), the parcel is non-conforming based on the inadequate parking that has not been brought up to Code. While I understand how the 12 spaces on site could be grandfathered, it is a basic principle of Planning & Zoning that when a non-conforming use is expanded, by either allowing additional parking to be developed or by an expansion of the use, everything on the site is required to be brought up to current Code. This principle is reflected in both the Madeira Beach City Code, Section 110-91(a), Section 110-93, as well as case law.

The application for the 4COP license reflects that additional parking is to be constructed on the Angry Pepper's site. I submit to you that if this additional parking is to be constructed, all the parking on the parcel would need to be brought up to Code, due to expansion of the non-conforming parking facilities. Additionally, an off-street loading space would need to be constructed, per Madeira Beach Code, Section 110-996. As an historical note, the off-street loading space for the Angry Pepper used to be the ingress and egress in the front between Angry Pepper's parcel and REC Investment, Inc.'s parcel. Attached as Exhibit D are photographs which clearly illustrate where the trucks used to drive through, stop and make deliveries in the common ingress and egress between the parcels, and exit out of Angry Pepper's parcel. Since the Angry Pepper's parcel has no right to utilize such ingress and egress, an off-street loading space is required per Madeira Beach Code with this new application.

Furthermore, the application to change from a 2COP to a 4COP is clearly an expansion of the existing use, which has been confirmed over the years by the Courts. See JPM Investment Group, Inc. v. Brevard County Board of County Commissioners, 818 So.2d 595 (FL 5th DCA 2002) (finding change from serving beer and wine to serving all alcoholic beverages constituted expansion of nonconforming use) and Salerni et al. v. Scheuy, City Clerk, 140 Conn. 566 (Conn. Sup.Ct. 1954) (finding sale of liquor would be an extension and enlargement of a nonconforming use).

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The difference between the sale of beer only in a restaurant and the sale of all liquors therein is so great that our law requires a different permit from the liquor control commission for each of the two kinds of business. The fee charged for a permit to sell all kinds of liquor in a restaurant is much larger than for a permit to sell beer only. The reason for this must be either that the legislature believed that a restaurant selling all liquors would ordinarily do a different kind of business or that it was contemplated that it would cost more to police it. JPM Investment Group, Inc. v. Brevard County Board of County Commissioners, 818 So.2d at 599 quoting Salerni v. Scheuy.

Again, when a parcel has non-conforming structures (which in this case, Angry Pepper's parking which is not conforming to Code), it is necessary with an expansion of use for all non-conformities to be brought into compliance with current City Code.

If such parking facilities were brought into compliance, I submit to you that parking would be limited to far less than the 25 proposed spaces and, therefore, their application should be limited to the number of seats for which parking can be provided. By approving this 4COP application as-is, without the parking facilities being addressed properly, the City would be signing off on the applicant obtaining a 4COP license for 100 seats. The applicant will then submit a seating diagram to the Division of Alcoholic Beverages which shows 100 seats. Furthermore, Madeira Beach should not be allowing the Angry Pepper to reflect 100 seats on its Business Tax Receipt, when the parcel does not currently have enough parking to justify that number of seats.

In addition to the above arguments, under Section 110-532 of the Madeira Beach City Code, the Board of Commissioners must consider the following factors:

1. The extent to which the location and the extent to which the proposed alcoholic beverage request will adversely affect the character of the existing neighborhood.
2. The extent to which traffic generated as a result of the location of the proposed alcoholic beverage request will create congestion or present a safety hazard.
3. Whether or not the proposed use is compatible with the particular location for which it is proposed.
4. Whether or not the proposed use will adversely affect the public safety.

Mayor Travis Palladeno
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5. No application for review under this section shall be considered until the applicant has paid in full any outstanding charges, fees, interest, fines or penalties owed by the applicant to the city under any section of the Code.

As to first factor, like the Court said in Salerni v. Scheuy, "As a matter of common knowledge it is also true that ordinarily a restaurant with a full liquor permit is quite a different sort of enterprise from a restaurant which sells only beer. It is a more ambitious establishment, partaking to at least some degree of the characteristics of a night club, rather than a quiet family eating place."

REC Investments, Inc. would submit that granting of the 4COP would adversely affect the character of the existing neighborhood. In addition to being located next to professional offices, a church has moved in across the street, there is an elementary and middle school located not far from the property, and residential condominiums, Sea Towers, are almost directly behind the Angry Pepper parcel. The likelihood of rowdy patrons, loud noise and later hours, all of which would adversely affect the character of the neighborhood, are extremely likely based on the granting of a 4COP license.

As to factors 2 and 4, REC Investments, Inc. would submit that the traffic generated as a result of the increase to a 4COP license would present a safety hazard and congestion. First and foremost, due to the lack of an "off-street loading space" (which is required by Madeira Beach's Code of Ordinances, and should be required of the applicant), delivery trucks are stopping in the middle of Duhme Road. It is only common sense that with additional orders of liquor, more trucks would be blocking the road and/or the same truck would be there for an extended period of time. The clients and employees of REC Investment, Inc.'s parcel that are exiting the parking lot, must now cut across an extra lane of traffic to proceed around the delivery vehicles that are stopped and blocking the road. Furthermore, with the very limited space on site for parking, especially with the potential additions of the proposed parking, the area to turn around and exit Angry Pepper's parcel is extremely limited. There is only one ingress and egress from Angry Pepper's parcel, and the potential influx of new customers with the 4COP license, there is a likelihood of traffic being backed up on Duhme Road while cars are maneuvering to exit the parcel (whether because they are leaving or because there is no parking left), creating a safety hazard. This hazard will only be magnified by the fact the patrons have been drinking liquor.

As to factor 3, REC Investments, Inc. would argue that the proposed use, as a 4COP, is not compatible with the particular location. As stated before, with the addition of the church across the street, the residents living near by and professional offices which operate immediately adjacent to the Angry Pepper (including a real estate office which often has

Mayor Travis Palladeno
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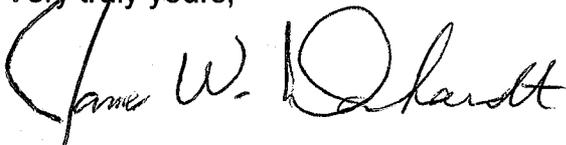
clients coming and going on weekends), the new clientele and the expanded nature of the Angry Pepper business would not be compatible in this particular location.

As you can probably see from the history outlined above, parking between the parcels has been a contentious issue between the property owners and a continuing problem for REC Investments, Inc. Despite the fact that Angry Pepper's patrons no longer have the right to park on REC Investment, Inc.'s parcel, common sense tells us that as more patrons are attracted to the business based on the 4COP license, more issues will arise. Yes, REC Investments, Inc., does have signs and the ability to tow cars from the parking lot, but this does not eliminate the issue and inconvenience that REC Investments, Inc. experiences from Angry Pepper's patrons parking on its parcel, which will surely become more prevalent with the granting of a 4COP license.

Also attached as Exhibit E are copies of two prior letters sent to Planning & Zoning Director Michell Orton some of our concerns and objections to this application.

This is a case where the Angry Pepper parcel has been allowed to overbuild on the land and with parking spaces available even without considering what is going to be a required construction/movement of a handicapped ramp and handicapped space. If you have been to the Angry Pepper parcel lately, you likely experienced the parking lot being full or nearly full at all times during the day. When it is snowbird season, Madeira Beach experiences an influx of residents and visitors. It is during snowbird season that the issues with inadequate parking and increased patrons become extremely clear. Again, the expansion of use to a 4COP would only exacerbate the problem. The parcel is simply not large enough to allow for the expansion of use in harmony with the five factors listed in the City Code for your consideration.

Very truly yours,



James W. Denhardt

Enclosures

cc: Thomas Trask, Esquire
Ms. Ruth Cabella
REC Investments, Inc.

JWD/dh

IN THE CIRCUIT COURT FOR PINELLAS COUNTY, FLORIDA

CIVIL DIVISION

JAMES BUMILLER, Individually,

Plaintiff/Counter Defendant,

CASE NO. 14-3117-CI

v.

REC INVESTMENTS, INC.,
A Florida profit corporation,

Defendant/Counter Plaintiff.

PARTIAL SUMMARY JUDGMENT

THIS CAUSE coming on to be heard this date on the Defendant/Counter Plaintiff, REC INVESTMENT, INC.'s, Motion for Partial Summary Judgment, and both parties being present before the Court individually and through their respective counsel, and the Court having reviewed the file, pleadings, affidavits and other filings, and this Court having heard the representations and stipulations of the parties and arguments of counsel at the hearing held herein a year ago on the Plaintiff's Motion for Emergency Temporary Injunction and recalling such testimony, and having heard further arguments of counsel today, including the Defendant/Counter Plaintiff's Memorandum of Law, and being otherwise advised in the premises, the Court does make findings of fact as follows:

1. The Plaintiff filed his Second Amended Complaint in this cause on or about July 17, 2014 alleging that an easement recorded in O.R. Book 6254, Page 932, Public Records of Pinellas County, Florida (first easement) existed in favor of his parcel and

gave him the right of use of all of the 35 parking spaces on an adjacent parcel of real estate, 4332 Duhme Road (4332 parcel), now owned by the Defendant.

2. In its Answer to the Second Amended Complaint, the Defendant has denied that such instrument gives any rights to the Plaintiff for the use of the Defendant's parcel.

3. The Plaintiff scheduled a 15-minute hearing on its Motion for Emergency Temporary Injunction a year ago on May 14, 2014. Such time was not sufficient to conduct a full hearing, and the Court heard the representations and stipulations of the parties through their counsel, in the presence of the parties.

4. Up until the Plaintiff bought his parcel, such parcel had always been operated as a small, open air fruit stand. Plaintiff continued to operate such fruit stand for a period of time, until he converted the premises into a small, open air bar. Subsequently, on several occasions, the Plaintiff went to the City of Madeira Beach seeking permission to enlarge his bar into a bar/restaurant, which would have required additional parking, and Plaintiff misrepresented to the City of Madeira Beach that he had the right to use all 35 spaces on the Defendant's parcel for his required parking, and accordingly, was allowed to enlarge his premises several times.

5. The Defendant owns and operates Century 21 Champions Real Estate Office as a broker, with over 150 agents working out of her property.

6. As a result of the great increase in the Plaintiff's building size and need for parking, at times his employees and customers fill up all of the Defendant's parking spaces, to the extent that her own business and tenants in her building have no parking.

7. At the temporary hearing a year ago, the Defendant stipulated that as an interim measure, it would cover its four Tow Away signs and the Plaintiff stipulated that the Defendant could continue to have the remainder of its No Parking signage on its premises, pending final hearing or further order of the Court.

8. Subsequent to that time, until the past week prior to this hearing, the Plaintiff has taken no action of record concerning the case in an attempt to move this case to final hearing, except for sending back to the Defendant the same discovery that was propounded by the Defendant to the Plaintiff.

9. The Affidavit filed herein by the Defendant of Robert C. Decker, an Attorney practicing in Pinellas County, Florida for 41 years, and who has been a Board Certified Real Estate Attorney for 17 years, establishes that he has independently obtained title searches of both parcels and examined all documents of title, and that the recorded document relied upon by the Plaintiff as the Plaintiff's sole basis for asserting easement rights did not contain the correct legal description of the Defendant's property, and was ineffective to convey any easement rights in the Defendant's property to the Plaintiff's predecessors in title or to the Plaintiff.

10. The Plaintiff has filed an Affidavit of John Brendla, a licensed surveyor. However, such Affidavit points out that although the legal descriptions on the first easement and the second easement were virtually identical, they both describe in general terms the Plaintiff's parcel, and therefore could not give any easement rights to the Plaintiff's predecessor in title, or the Plaintiff, in the Defendant's parcel, and the Court finds that such Affidavit does not establish that there is any issue of fact as to whether the instrument

relied upon by the Plaintiff created any easement rights in favor of the Plaintiff's predecessor in title in the Defendant's property.

11. The Court finds that the document relied upon by the Plaintiff, recorded in O. R. Book 6254, Page 932, Public Records of Pinellas County, Florida did not contain a legal description of the Defendant's property sufficient to or to grant any easement rights in the Defendant's property to the Plaintiff's predecessor in title.

12. The Affidavit of Mr. Decker further establishes that the fatal defect in the first easement was apparently discovered shortly after its recordation, as approximately four months later, a second easement was recorded in O.R. Book 6332, Page 331, Public Records of Pinellas County, Florida, containing a different legal description. Mr. Decker's Affidavit establishes that such second easement was not re-witnessed, re-executed or re-notarized in accordance with the requirements of law, but merely had the recordation data of the first document crossed out and a different legal description attached, with such document being re-recorded. Mr. Decker opined that such second easement failed to convey any easements rights in favor of the Plaintiff's predecessor in title.

13. The Plaintiff is not relying upon the second easement as the basis for any easement rights he asserts, and concedes that such second easement granted no interest in the Defendant's property to the Plaintiff's predecessor in title or to the Plaintiff.

14. The Court finds that the second easement recorded in O.R. Book 6332, Page 331, Public Records of Pinellas County, Florida also did not convey any easement rights to the Plaintiff's predecessor in title or the Plaintiff, both because that easement did

not contain the legal description of the Defendant's parcel and because that easement was not executed, witnessed and notarized in accordance with the requirements of law.

15. Even if there was any factual issue as to whether the first easement, or even the second easement, both recorded in 1986, granted any right to the Plaintiff's predecessor in title or the Plaintiff to utilize any of the property of the Defendant for parking or other matters, Mr. Decker's independent title examination revealed and established that any such easement rights that might conceivably have existed were released back to the owner of the Defendant's parcel by Quit Claim Deed executed and recorded in 1995 in O.R. Book 9213, Page 951, Public Records of Pinellas County, Florida, which Deed was executed by George Tagaras, who at that time was the sole owner of the Plaintiff's parcel and who executed such Quit Claim Deed releasing "all of his right, title and interest" in the Defendant's property.

16. The Affidavit of Louis J. Duminuco establishes that at the time of such Quit Claim Deed, Mr. Duminuco was a principle of Sunway, Inc., a predecessor in title of the Defendant's parcel, and that Sunway was in the process of selling such property to Tauber Real Estate Holdings, LC, the Defendant's immediate predecessor in title, and that as part of that transaction, it was necessary for Sunway to obtain the Quit Claim Deed from George Tagaras to confirm that there was no encumbrance on the Defendant's parcel for any easement rights in favor of the Plaintiff's parcel.

17. The Court finds that there has been no factual issue created as to any intention of George Tagaras in the execution of such Quit Claim Deed, but that even if there was any factual issue as to Mr. Tagaras' intention, as a matter of law, such intention

would be irrelevant, as a Quit Claim Deed from the owner of one parcel to the owner of an adjacent conveying "all of the right, title and interest" of the owner of the first parcel in the property of the second parcel, conveys away all easement rights, even if the owner of the first parcel had not intended to release the easement rights. *Uihlein v. Matthews*, 10 Bedell 154 (N.Y. Ct. of Appeals 1902); *Joseph v. Duran*, 436 So.2d 316 (Fla. 1st DCA 1983); *City of St. Petersburg v. International Ass'n of Firefighters, Local No. 747*, 317 So.2d 788 (Fla. 2d DCA 1975); *Saltzman v. Ahern*, 306 So.2d 537 (Fla. 1st DCA 1975).

18. The Court finds that the language in the Quit Claim Deed is unambiguous and extremely clear on its face that the grantor released all right, title and interest in the Defendant's property, including any easement rights that conceivably existed on the Defendant's property in favor of the Plaintiff.

19. The Plaintiff, JAMES BUMILLER, has filed an Affidavit of himself. Such Affidavit does not deny any fact that is established, but merely seems to assert why he thought there was an easement.

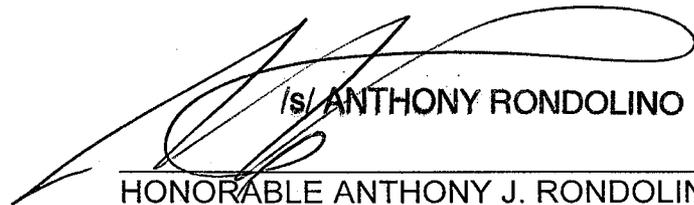
Based upon the foregoing findings of fact, argument of counsel and citations of authority argued, it is

ORDERED AND ADJUDGED that Partial Summary Judgment is hereby entered in favor of the Defendant/Counter Plaintiff, REC INVESTMENTS, INC., as to each count of the Plaintiff's Second Amended Complaint and as to each count of the Defendant/Counter Plaintiff's Counter Complaint, on the issue as to whether the Plaintiff, JAMES BUMILLER, has any easement rights on the property owned by the Defendant, REC INVESTMENTS, INC., and the purported easements recorded in O.R. Book 6254, Page

932, Official Records of Pinellas County, Florida on June 23, 1986, and in O.R. Book 6332, Page 331, Official Records of Pinellas County, Florida, on October 6, 1986, are hereby declared to be void and of no effect, and it is

FURTHER ORDERED AND ADJUDGED that this matter shall remain pending for determination of any other issues, including any appropriate matters of award of attorney's fees or taxable costs.

DONE AND ORDERED in Chambers at St. Petersburg, Pinellas County, Florida on this 13th day of May, 2015.

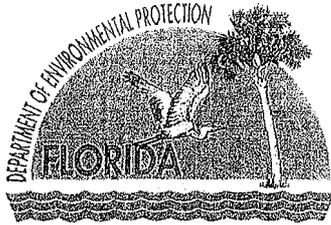
A handwritten signature in black ink, appearing to read 'A. Rondolino', is written over a horizontal line. The signature is stylized and cursive.

/s/ ANTHONY RONDOLINO

HONORABLE ANTHONY J. RONDOLINO
CIRCUIT JUDGE

Copies furnished:

James W. Denhardt, Esquire
Matthew B. Sullivan, Esquire



Florida Department of Environmental Protection

South West District Office
13051 N. Telecom Parkway
Temple Terrace, Florida 33637

Rick Scott
Governor

Jennifer Carroll
Lt. Governor

Herschel T. Vinyard Jr.
Secretary

Standard General Environmental Resource Permit

Permittee: **Angry Pepper Waterside Smokeshack and Grill**
Permit No: **52-0309992-001**
Permit Issuance Date: **June 7, 2012**

AUTHORIZATIONS

Project Description

This permit is for the operation and maintenance of an existing 527-square-foot, four-slip commercial dock within an artificial canal, a Class III Florida Waterbody contiguous with Boca Ciega Bay Aquatic Preserve. This permit does not authorize any new construction at the facility.

The project described above may only be conducted 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.

State-owned Submerged Lands Authorization

As staff to the Board of Trustees, the Department has reviewed the activity described above and has determined that the activity is not located on submerged lands owned by the State of Florida. Therefore, your project is not subject to the requirements of Chapter 253, Florida Statutes (F.S.).

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.

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 homeowner's associations or 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. This permit does not relieve you from the requirements to obtain all other required permits or authorizations.

PROJECT LOCATION

The activities authorized by this permit are located at 4330 Duhme Road (Parcel ID 03-31-15-25146-000-0010), Madeira Beach, in Section 3, Township 31 South, Range 15 East, in Pinellas County.

PERMIT CONDITIONS

The activities described herein must be conducted in accordance with:

- **The Specific Conditions**
- **The General Conditions**
- **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 that the work is conducted in conformance with all the terms, conditions, and drawings. If you are utilizing a contractor, the contractor should also read and understand these conditions and drawings prior to commencing the authorized activities. Failure to comply with these conditions, 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 as specifically described herein.

SPECIFIC CONDITIONS

1. Submittals required herein (e.g., progress reports, as-built drawings, etc.) shall include the permittee's name and permit number 52-0309992-001 and shall be directed by e-mail to SW_ERP@dep.state.fl.us with a subject line of compliance permit number 52-030992-001, or by mail to:

Department of Environmental Protection
Southwest District

Angry Pepper Waterside Smokeshack and Grill
Permit No.: 52-0309992-001

Submerged Lands and Environmental Resource Program
13051 North Telecom Parkway
Temple Terrace, FL 33637-0926

CONSTRUCTION CONDITION

2. Within 90 days of permit issuance, the permittee shall provide photographs documenting the installation of the "Non-motorized Vessel Mooring Area" signs at the locations depicted on sheet 3 of 3.

OPERATING CONDITIONS (The permittee shall comply with the following operation conditions for the life of the facility.)

3. The docking facility is limited to the mooring of four vessels, with the slips defined on Sheets 2-3 of 3 of the attached permit drawings. The outer slips shall be limited to the mooring of non-motorized vessels as shown on Sheet 3 of 3 of the attached permit drawings.
4. There shall be a minimum 12-inch clearance between the deepest draft of the vessel (with the motor in the down position) and the top of submerged resources for all vessels associated with the use of the docking facility as measured at mean low water.
5. Fish cleaning stations shall not be allowed on structures over the water unless sufficient measures are in place (i.e., signage, sink screens, waste receptacles, etc.) to ensure that overboard discharges of trash and/or animal waste do not occur at the dock. The permittee shall submit a plan for Department review and approval prior to installation of any fish cleaning stations.
6. The handrails and "Non-motorized Vessel Mooring Area" signs defined on Sheet 3 of 3 of the project drawings shall be maintained for the life of the facility.
7. Boat maintenance or repair activities that require the removal of a vessel from the water, or removal of major portions of the vessel, including the engine, for purposes of routine repair or maintenance on site are prohibited over water at the facility, except where such activities are necessitated by emergency conditions which have resulted in or can result in the sinking of a vessel. Specifically prohibited shall be hull scraping, stripping, sanding, painting, recoating, and other maintenance or repair activities that may result in degradation of water quality from discharges or release of potential contaminants into waters of the state.
8. The slips shall not be occupied by liveaboards. A liveaboard is defined as a vessel docked at a facility and inhabited by a person or persons for any five (5) consecutive days or a total of ten (10) days within any thirty (30) day period.
9. Fueling facilities shall not be provided at the docking facility.

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 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 that does not cause violations of state water quality standards. The permittee shall implement best management practices for erosion and pollution control to prevent violation 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 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 waterbody 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 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 days of sampling and total monthly volume discharged from the property or into surface waters of the state.
5. 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 surface waters, a written dewatering plan must either 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 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 beneficial occupancy or use of the development being served by this system.
9. The following shall be properly abandoned and/or removed in accordance with the applicable regulations:
 - a. Any existing wells in the path of construction shall be properly plugged and abandoned by a licensed well contractor.
 - b. Any existing septic tanks on site shall be abandoned at the beginning of construction.
 - c. Any existing fuel storage tanks and fuel pumps shall be removed at the beginning of construction.
10. 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 runoff from the property and to minimize dewatering of offsite property.
11. At least 48 hours prior to commencement of activity 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.
12. 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 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 that phase or portion of the system to a local government or other responsible entity.
13. Within 30 days after completion of construction of the permitted activity, 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 "Request for Transfer of Environmental Resource Permit Construction Phase to Operation Phase" (Form 62-343-900(7), F.A.C.). Additionally, if deviations from the approved drawings are discovered during the certification process, the certification must be accompanied by a copy of the approved permit drawings with deviations noted.

14. 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.
15. 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 the permit to the responsible operation and maintenance entity approved by the Department, if different from the permittee. Until a transfer is approved by the Department pursuant to Section 62-343.110(1)(d), F.A.C., the permittee shall be liable for compliance with the terms of the permit.
16. 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.
17. 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.
18. 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 40D-40, F.A.C.
19. The permittee is hereby advised that Section 253.77, F.S., states that a person may not commence any excavation, construction, 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, easement, or other form of consent authorizing the proposed use. Therefore, the permittee is responsible for obtaining any necessary authorizations from the Board of Trustees prior to commencing activity on sovereignty lands or other state-owned lands.

20. 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 authorized by the permit or any use of the permitted system.
21. 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.
22. The permittee shall notify the Department in writing within 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 ownership or transfers of a permit are subject to the requirements of section 62-343.130, F.A.C. The permittee transferring the permit shall remain liable for any corrective actions that may be required as a result of any permit violations prior to such sale, conveyance or other transfer.
23. 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.
24. 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.
25. The permittee shall immediately notify the Department in writing of any previously submitted information that is later discovered to be inaccurate.

NOTICE OF RIGHTS

This permit is hereby final 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. The procedures for petitioning for a hearing are set forth below.

Mediation is not available.

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. 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.

Because the administrative hearing process is designed to re-determine final agency action on the application, the filing of a petition for an administrative hearing may result in a modification of the permit or even a denial of the application. If a sufficient petition for an administrative hearing or request for an extension of time to file a petition is timely filed, this permit automatically becomes only proposed agency action on the application, subject to the result of the administrative review process. Accordingly, the applicant is advised not to commence construction or other activities under this permit until the deadlines noted below for filing a petition for an administrative hearing, or request for an extension of time has expired.

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 time 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. 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. If a request is filed late, the Department may still grant it upon a 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.

In the event that 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. Any intervention 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.

In accordance with Rule 62-110.106(3) F.A.C., petitions for an administrative hearing by the applicant must be filed within 21 days of receipt of this written notice. Petitions filed by any persons other than the applicant, and other than those entitled to written notice under section 120.60(3) of the Florida Statutes must be filed within 21 days of publication of the notice or within 21 days of receipt of the written notice, whichever occurs first.

Under section 120.60(3) of the Florida Statutes, however, any person who has asked the Department for notice of agency action may file a petition within 21 days of receipt of such notice, regardless of the date of publication.

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 person's right to request an administrative determination (hearing) under sections 120.569 and 120.57 of the Florida Statutes.

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 that 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, F.A.C. Under Sections 120.569(2)(c) and (d), F.S., a petition for administrative hearing must be dismissed by the agency if the petition does not substantially comply with the above requirements or is untimely filed.

This action is final and effective on the date filed with the Clerk of the Department unless a petition is filed in accordance with the above. Upon the timely filing of a petition this order will not be effective until further order of the Department.

This permit constitutes an order of the Department. The applicant has the right to seek judicial review of the order under Section 120.68, F.S., by the filing of a notice of appeal under Rule 9.110 of the Florida Rules of Appellate Procedure with the Clerk of the Department in the Office of General Counsel, 3900 Commonwealth Boulevard, Mail Station 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 within 30 days from the date when the final order is filed with the Clerk of the Department. The applicant, or any party within the meaning of Section 373.114(1)(a), F.S., may also seek appellate review of this order before the Land and Water Adjudicatory Commission under Section 373.114(1), 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 final order is filed with the Clerk of the Department.

Executed in Hillsborough County, Florida.

STATE OF FLORIDA DEPARTMENT
OF ENVIRONMENTAL PROTECTION



William L. Vorstadt
Program Administrator
Submerged Lands and Environmental
Resource Program
Southwest District

WLV/ml

Attachments:

Application for transfer of an ERP /62-343.900(8) (1 page)
Project Drawings and Design Specs., (3 pages)

Copies furnished to:

U.S. Army Corps of Engineers
File

CERTIFICATE OF SERVICE

The undersigned hereby certifies that this permit, including all copies, was mailed before the close of business on 6/7/12, 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.



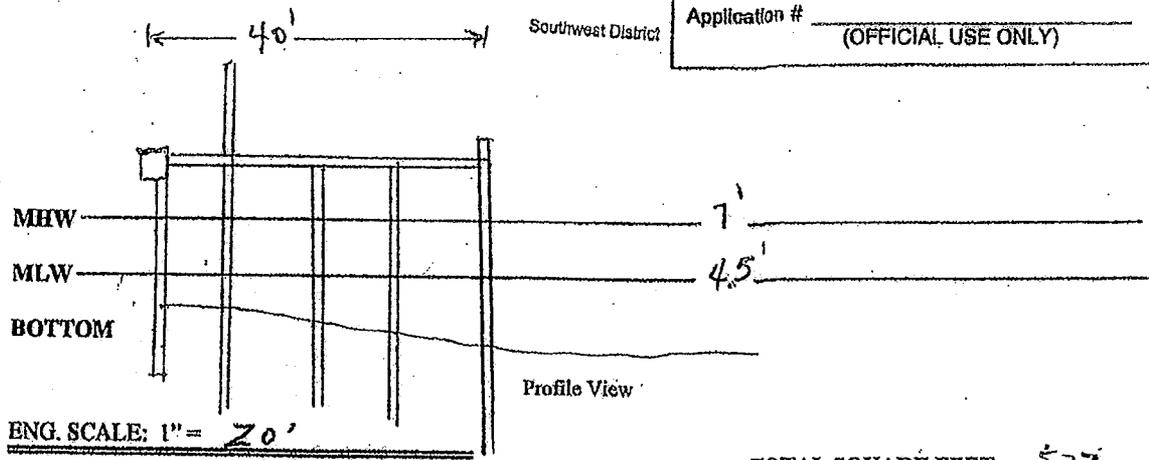
Clerk

Date

MAR 12 2012

Southwest District

Application # _____
(OFFICIAL USE ONLY)



ENG. SCALE: 1" = 20'



Z →

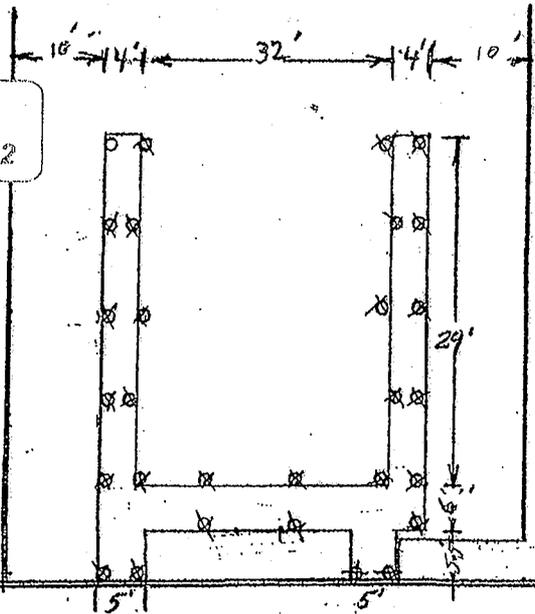
TOTAL SQUARE FEET 527

NEW SQUARE FEET 527

WATERWAY WIDTH 60'

WATERFRONT WIDTH 60'

Plan View
(applicant and adjacent docks)



APPROVED

By sw_erp at 4:33 pm, Jun 07, 2012

Municipality Approval	Water and Navigation Approval	Engineer's Seal

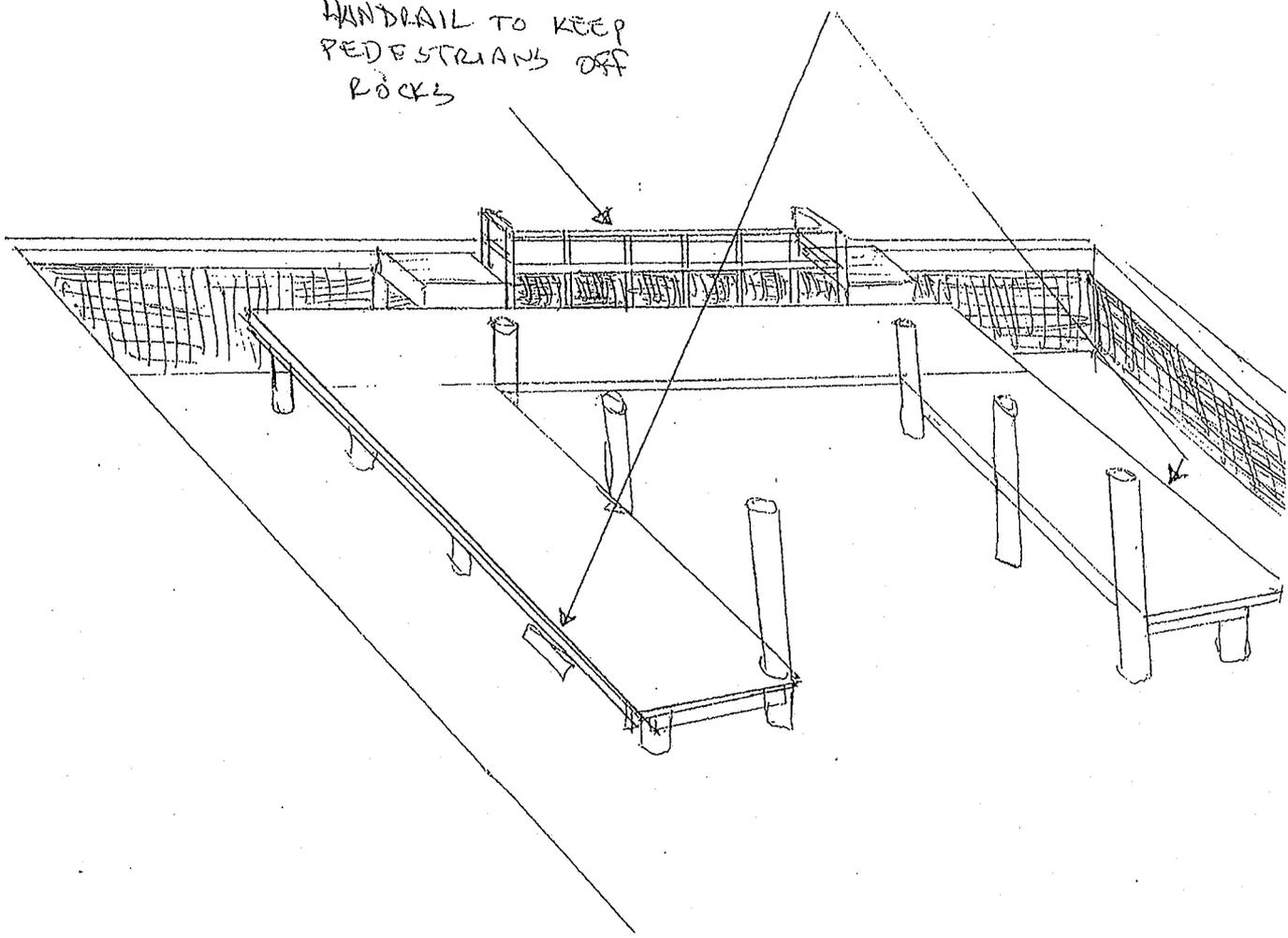
TO EXISTING ROCK

APPROVED

By sw_erp at 4:33 pm, Jun 07, 2012

SIGNAGE :
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SMALL CART ONLY

HANDRAIL TO KEEP
PEDESTRIANS OFF
ROCK





DEF
10-0

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Exhibit D



DEF
10-P

MUR
PEPPER
WATERSIDE
SMOKESHACK
& GRILL

Blue water bottle

Blue water bottle

*Law Offices of
James W. Denhardt
Attorneys at Law*

James W. Denhardt

Lauren Christ Rubenstein

*2700 First Avenue North
St. Petersburg, Florida 33713
Telephone (727) 327-3400
Facsimile (727) 323-0888*

June 10, 2016

Ms. Michell Orton, Director
Planning & Zoning Dept.
City of Madeira Beach
300 Municipal Drive
Madeira Beach, Florida 33708

RE: Angry Pepper 4COP Alcoholic Beverage License Application

Dear Ms. Orton:

Thank you for speaking with me this morning. As we discussed, I am having difficulty understanding how the determination by Lynn Rosetti in 2014, a copy of which I forwarded to you along with my letter on Wednesday, which established grandfathered parking at that time could now be altered to allow even more parking, without all such parking being Code compliant in accordance with the current provisions of the Madeira Beach Code. Such application at that time claimed that there were 50 existing spaces. However, that application was based upon the incorrect assertion that Mr. Bumiller had the right to use 35 spaces on the adjacent REC Investments, Inc. property, which has now been judicially determined that Mr. Bumiller never had the right to claim. Such application at that time only reflected 15 spaces which Mr. Bumiller, the property owner, claimed were currently existing grandfathered parking spaces.

The application at that time reflected five proposed spaces for vessels, when it has now been shown that the DEP application clearly limited the dock to four vessels, both motorized and non-motorized. That application did not deduct the three out of five parking spaces in the rear where the deck was allowed to be constructed over such three parking spaces. The fact that such parking spaces no longer exist can clearly be seen by visiting the premises, as the five curb stops are still lined up against the REC Investments, Inc. property, but the deck is built over the top of three of those curb stops.

Deducting the 35 spaces on the REC Investments, Inc. property from the application, which spaces it has been shown Mr. Bumiller never had the right to claim, deducting the one

Ms. Michell Orton, Director
Planning & Zoning Dept.
City of Madeira Beach
June 10, 2016
Page 2

vessel space that it has now been shown Mr. Bumiller never had the right to claim, and deducting the three spaces over which the deck was allowed to be built, from the 59 parking spaces that Mr. Bumiller showed were "proposed," would leave no more than 20 spaces, even assuming no additional construction on the site, no requirement of a Code compliant handicapped parking space on the site, or no requirement of compliance with the Madeira Beach Code as to a "off-street loading space."

I understand that the applicant is in the process of designing and submitting a plan for an ADA compliant handicapped ramp located entirely on the Angry Pepper property, as the Angry Pepper no longer has the right to utilize the handicapped ramp located on the REC Investments property. Without seeing the design and plan, it is extremely difficult for me to envision how, on such a small parcel with very limited area not occupied by a structure, that such handicapped ramp could be constructed without taking away some of any existing parking that might be considered grandfathered. In addition, an ADA compliant handicapped parking space is required on the Angry Pepper parcel, and it does not appear that a parking space of sufficient width is reflected on the applicant's current plan.

The applicant also does not reflect an off-street loading space in compliance with the Madeira Beach Code. Although the applicant may assert that the area of parking to the south of the building (where he now shows not only the parking spaces along the south property line of the parcel, but also proposed parking spaces adjacent to the building) was somehow grandfathered for loading spaces of delivery vehicles, that simply is not the case. Attached are two photographs showing where the deliveries were always made to the Angry Pepper by the delivery vehicles entering the curb cut on the REC Investments property and driving to the south through what was formerly the common ingress/egress between the two parcels, and parking half on the Angry Pepper property and half on the REC Investments property, to deliver food, beer and wine. That area no longer exists, and it is submitted that any new area reflected for off-street loading would need to be compliant with the provisions of the Madeira Beach Code.

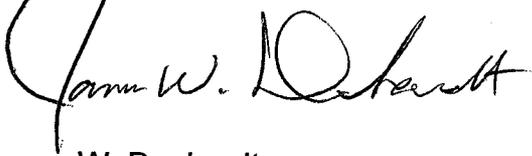
As I indicated on the phone, I recognize that the issues as to an alcoholic beverage license and whatever parking is considered to be grandfathered or allowed are somewhat separate. However, they are also very related, in that the proposed seating plan will be shown on the alcoholic beverage application submitted to the Florida Division of Alcoholic Beverages, and the City would be signing off on that application as to the number of seats to be allowed.

I am not sure of the time limit policy on comments at meetings of the City Commission of Madeira Beach, but since this matter is a site-specific determination by the City Commission, and applies criteria established by ordinance in the Land Development Code

Ms. Michell Orton, Director
Planning & Zoning Dept.
City of Madeira Beach
June 10, 2016
Page 3

to the application both as to the requested alcoholic beverage use and as to any determination that might be made, directly or indirectly, as to established grandfathered parking, handicapped ramp, handicapped parking space, off-street loading space, or other issues, I would submit that it is quasi judicial. Accordingly, as the representative of an adjacent, contiguous and directly impacted property owner, we would request longer than three minutes for our comments and presentation, but doubt that we would require anywhere near 15 minutes.

Very truly yours,

A handwritten signature in black ink, appearing to read "James W. Denhardt". The signature is written in a cursive style with a large initial "J".

James W. Denhardt

cc: Thomas Trask, Esquire
Ms. Ruth Cabella
REC Investments, Inc.

JWD/dh

*Law Offices of
James W. Denhardt
Attorneys at Law*

James W. Denhardt

Lauren Christ Rubenstein

*2700 First Avenue North
St. Petersburg, Florida 33713
Telephone (727) 327-3400
Facsimile (727) 323-0888*

June 10, 2016

Ms. Michell Orton, Director
Planning & Zoning Dept.
City of Madeira Beach
300 Municipal Drive
Madeira Beach, Florida 33708

RE: Angry Pepper 4COP Alcoholic Beverage License Application

Dear Ms. Orton:

Thank you for speaking with me this morning. As we discussed, I am having difficulty understanding how the determination by Lynn Rosetti in 2014, a copy of which I forwarded to you along with my letter on Wednesday, which established grandfathered parking at that time could now be altered to allow even more parking, without all such parking being Code compliant in accordance with the current provisions of the Madeira Beach Code. Such application at that time claimed that there were 50 existing spaces. However, that application was based upon the incorrect assertion that Mr. Bumiller had the right to use 35 spaces on the adjacent REC Investments, Inc. property, which has now been judicially determined that Mr. Bumiller never had the right to claim. Such application at that time only reflected 15 spaces which Mr. Bumiller, the property owner, claimed were currently existing grandfathered parking spaces.

The application at that time reflected five proposed spaces for vessels, when it has now been shown that the DEP application clearly limited the dock to four vessels, both motorized and non-motorized. That application did not deduct the three out of five parking spaces in the rear where the deck was allowed to be constructed over such three parking spaces. The fact that such parking spaces no longer exist can clearly be seen by visiting the premises, as the five curb stops are still lined up against the REC Investments, Inc. property, but the deck is built over the top of three of those curb stops.

Deducting the 35 spaces on the REC Investments, Inc. property from the application, which spaces it has been shown Mr. Bumiller never had the right to claim, deducting the one

Ms. Michell Orton, Director
Planning & Zoning Dept.
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vessel space that it has now been shown Mr. Bumiller never had the right to claim, and deducting the three spaces over which the deck was allowed to be built, from the 59 parking spaces that Mr. Bumiller showed were "proposed," would leave no more than 20 spaces, even assuming no additional construction on the site, no requirement of a Code compliant handicapped parking space on the site, or no requirement of compliance with the Madeira Beach Code as to a "off-street loading space."

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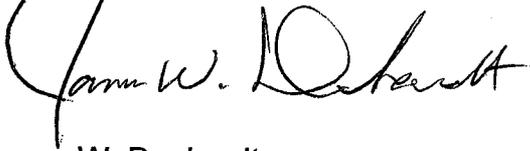
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Very truly yours,

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James W. Denhardt

cc: Thomas Trask, Esquire
Ms. Ruth Cabella
REC Investments, Inc.

JWD/dh

City of Madeira Beach

RE: Castaways Beach Bar 2COP Alcoholic Beverage Application #2016-04

Dear Mayor and Commissioners:

I have owned the property at 13495 Gulf Boulevard since 1987. I currently reside there. I have witnessed the Mad Beach Bar in its many iterations. Some good, some bad with numerous interactions with my patients, my guests and my staff. I will be out of state on June 14th so please address my following concerns at the Public Hearing.

1. Parking in my 18 allocated parking spots during the business hours of the DOCTORS INN Medical Clinic. There are practitioners active at the Clinic from 8 AM to 11 PM with their employees and patients using the parking lot during those times Monday through Saturday. There have been patrons of the bar parked without permission who have been disruptive on my property. I have personally witnessed fights, loud verbal confrontations and loud music coming from the cars parked on my property who were apparent patrons of the bar. I have posted no parking signs and have never resorted to towing those bar patron's vehicles even after written and verbal notice notices were provided. I understand that this is a beach community and have been tolerant of many diverse behaviors.

2. I reside above the commercial first floor at the residential address. Please have the Castaways Bar owners provide the neighbors a 24 hour contact phone number in a conspicuous public place outside the bar so the residents and businesses can make the inevitable complaints of the bar patrons behaviors in the neighborhood known to the staff and owners of the bar. Courteous uniform Parking enforcement by the City will be certainly appreciated at most commercial and residential locations in Madeira Beach.

3. Loud bar patrons' music, vehicles and disruptive behaviors. Some people actually sleep and recreate at variable times. How will the owners and their staff control the bar noise production in a residential and commercial area during their and our times of operation?

4. The one way signs are in poor condition at the ends of the alley behind the bar between 134th Street and 135th Street. The one way traffic signs posted in the alley at 135th Street are in opposite directions. The one way alley South of 135th Street goes South. The one way alley North of 135th Street goes North. Very confusing and potential dangerous. When will a collision occur? Why does this traffic contravention exist? Can the City do something about replacing or correcting the one way signs?

5. The right of way in the alley has copious debris and trash. I know because myself and my staff regularly remove it in the vicinity of my property. With increased patrons of the bar how will the Bar improve the trash and debris removal from the alley and right of way?

6. How about maintaining the right of way in a presentable manner? Is the City responsible for maintaining the right of way and landscaping? Lets have some beautification and code enforcement in the City alleys and right of way.

7. There has been one fatality of a resident this past year due to stepping off a curb onto the street in front of the currently closed Mad Beach Bar. What will the City and the proposed Castaways Beach Bar do to prevent another traffic injury or fatality?



Robert P Fedor DO

commercial property owner, resident, registered voter, licensed physician and surgeon

City of Madeira Beach

RE: Castaways Beach Bar 2COP Alcoholic Beverage Application #2016-04 response from Castaways Beach Bar representative to Mr. Roberts Letter to Madeira Beach officials

Dear Mayor and Commissioners:

I Eric Audit, representative for Castaways Beach Bar, have prepared the following answers, ideas and responses to the letter presented to you from Mr. Robert Fedor, owner of property at 13495 Gulf Blvd, Madeira Beach. (Doctors Inn building)

- 1) Castaways provides ample patron parking behind our building and the lot adjacent to the building as noted in the Commissioner's and Mr. Mayor's packets. Signage exists directing the patrons of Castaways to the designated parking lot. Castaways agrees to post a sign at the back door of our building stating the following. **" Please park in the designated lot and spaces provided for Castaways patrons only. Parking in areas not designated for Castaways patrons could result in your vehicle being towed.**

If unauthorized vehicles are parked in Mr. Fedor's lot and the occupants of those vehicles are being loud and unruly, we suggest Mr. Fedor call the Sherriff's office and or the authorized towing company to have the situation resolved or vehicles towed.

- 2) Castaways will post our business telephone number on the back outside of the building so we can be reached during business hours. If any issues occur outside of our business hours, then chances are they are not related to our patrons and the Sherriff's office should be called.
- 3) Castaways will adhere to the noise ordinances and laws put forth by Madeira Beach. All of our designated parking is south of Mr. Fedor's property and residence.
- 4) The city and respective officials would handle the one way signage for the alley.
- 5) Castaways is dedicated to policing the alley ways between our neighboring buildings and the back lot, and roadway behind our building on a daily basis and will pick up any trash or debris. We do note that we will have a COP license which means no unopened containers will be allowed to leave the property. Thus we do not anticipate any additional litter problems stemming from our establishment.
We also note that the back alley road has moderate pedestrian foot traffic every day from local residents getting from one location to another.
- 6) I believe this comment is directed to the city
- 7) I believe the pedestrian death that Mr Fedor is referring to occurred on November 26, 2015. The facts are that the pedestrian who was struck and killed was crossing from the west side of Gulf Blvd to the East side and was struck when he attempted to cross the street outside of the cross walk. I am not sure if Mr. Fedor was inferring that the pedestrian was leaving the bar located at our location but the fact is that he was not. I am not a trained traffic planner or public safety official so I cannot render any suggestions as how to stop pedestrian from Jay walking or not using the crosswalks. The city / DOT has spent a good deal of time, money and man power to install the lit crosswalks which should be utilized by pedestrian when crossing the street.

Eric Audit / Representative for Castaways Beach Bar



THE FLORIDA SENATE

Tallahassee, Florida 32399-1100

COMMITTEES:

Transportation, *Chair*
Community Affairs, *Vice Chair*
Appropriations Subcommittee on Transportation,
Tourism, and Economic Development
Criminal Justice
Education Pre-K - 12
Judiciary

JOINT COMMITTEE:

Joint Committee on Public Counsel Oversight

SENATOR JEFF BRANDES

22nd District

May 16, 2016

Mayor Palladeno
300 Municipal Drive
Madeira Beach, Florida 33708

Dear Mayor Palladeno,

Thank you! Receiving the key to Madeira Beach is truly an honor that I cherish. Madeira Beach is a wonderful city, much in tribute to the work you have done as Mayor. I look forward to your continued leadership; we have many projects still to accomplish.

Kind Regards,


Jeff Brandes

REPLY TO:

- 9800 Fourth Street North, Suite 200, St. Petersburg, Florida 33702 (727) 563-2100
- 318 Senate Office Building, 404 South Monroe Street, Tallahassee, Florida 32399-1100 (850) 487-5022

Senate's Website: www.flsenate.gov

ANDY GARDINER
President of the Senate

GARRETT RICHTER
President Pro Tempore