

**ZONING & PLATTING COMMISSION
CONDITIONAL USE SITE PLAN REVIEW SHEET**

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CASE NUMBER: SPC-2011-0346D

COMMISSION DATE: August 21, 2012

PROJECT NAME: Orleans Harbour

Note: The case was originally scheduled for public hearing on May 1, and was postponed by staff to the June 5 Zoning & Platting Commission meeting. Prior to the June 5 public hearing, the applicant requested a postponement to the July 3 meeting. The applicant then requested another postponement to the August 21 meeting.

ADDRESS: 2401 - 2465 Westlake Drive

LEGAL DESCRIPTION: Lots 33 & 34, Lakeshore Addition, Vol. 3, Page 30

WATERSHED: Lake Austin (Water Supply Rural)

AREA: 960 sq. ft. (limits of construction)

EXISTING ZONING: MF-3

APPLICANT: Orleans Harbor Homeowners Association
Atten: Kevin P. Hegarty
2455 Westlake Drive
Austin, Texas 78746
Phone: (512) 471-9977

AGENT: Aupperle Company
2219 Westlake Drive, Suite 110
Austin, Texas 78746
Phone: (512) 329-8241

OWNER: Granite Properties
808 West 10th Street
Austin, Texas 78701
Phone: (512) 469-0925

EXISTING AND PROPOSED USE: Orleans Harbour is an existing thirty-three unit residential condominium development located on an approximately 3.3-acre site on Lake Austin. This land use will remain, and the applicant proposes to create a private marina by constructing seven (7) 2 ft. x 30 ft. boat docks along the lake frontage, and by

C3
2

installing thirty-three mechanical boat lifts around the perimeter of the interior harbor, and adjacent to each of the proposed boat docks.

SURROUNDING CONDITIONS:

Zoning/ Land Use

North: LA (residential)
East: Lake Austin
South: Lake Austin
West: SF-6 (residential) and PUD

NEIGHBORHOOD ORGANIZATION:

Lake Austin Collective
Austin Parks Foundation
Homeless Neighborhood Association
Austin Neighborhood Council
Home Builders Association of Greater Austin
City of Rollingwood
League of Bicycling Voters
Save Our Springs Alliance
Sierra Club, Austin Regional Group
Island at Westlake Owners Association
The Real Estate Council of Austin, Inc.
Super Duper Neighborhood Objectors and Appealers Organization
Austin Monorail Project
Austin Heritage Tree Foundation
SEL Texas

SUMMARY COMMENTS ON SITE PLAN:

The Orleans Harbour residential condominium development was permitted in 1974 by Special Permit (CP14-73-059), which also allowed a boat stall to be constructed within the interior harbor, and boat tie-ups along the remainder of the water frontage. The boat stall was not built, but City staff has identified numerous watercraft mooring devices along the water perimeter.

The applicant currently proposes to construct seven (7) clustered boat docks along the Lake Austin shoreline of the development. However, this proposal will create a marina configuration and land use, and increase the number of mooring spaces available along the Orleans Harbour waterfront. In similar cases, such marinas have been defined as Community Recreation (Private) land uses, which are conditional in the MF-3 zoning district.

According to Section 25-2-6 of the Land Development Code, a Community Recreation (Private) use is the provision of an indoor or outdoor recreation facility for the exclusive use by residents or guests of a residential development, PUD, church, private educational

facility, club, lodge or non-profit organization.

Therefore, staff recommends that the Zoning & Platting Commission consider approval of Community Recreation (Private) as a conditional use for this site.

The applicant has contended that the proposed docks are necessary from a safety perspective as a result of increased wave activity caused by watercraft traffic on Lake Austin, and boats parked perpendicular to the wave action, as the proposed docks would allow, will be impacted less than those moored parallel to the waves. Orleans Harbour currently has flat vertical bulkheads along its water frontage which exacerbates negative wave action. By providing wave abatement methods along the Lake Austin shoreline, the wave energy and turbulence created by watercraft traffic would be mitigated, and waterfront safety would be enhanced.

Therefore, the applicant has agreed to construct a "toe" structure along the portion of the bulkhead where the seven new boat docks will be located. According to Environmental staff, this addition may be somewhat effective in reducing the negative wave action. Details of the "toe" structure are included with this backup information.

SUMMARY STAFF RECOMMENDATION FOR CONDITIONAL USE SITE PLAN: Staff recommends approval of Community Recreation (Private) conditional use.

CASE MANAGER: Michael Simmons-Smith

PHONE: 974-1225

E-MAIL: michael.simmons-smith@austintexas.gov

The City of Austin Land Development Code, Section 25-5-146 (CONDITIONS OF APPROVAL) states:

§ 25-5-146 CONDITIONS OF APPROVAL.

(A) To make a determination required for approval under Section 25-5-145 (Evaluation Of Conditional Use Site Plan), the Land Use Commission may require that a conditional use site plan comply with a condition of approval that includes a requirement for:

- 1) a special yard, open space, buffer, fence, wall, or screen;
- 2) landscaping or erosion;
- 3) a street improvement or dedication, vehicular ingress & egress, or traffic circulation;
- 4) signs;
- 5) characteristics of operation, including hours;
- 6) a development schedule; or
- 7) other measures that the Land Use Commission determines are required for compatibility with surrounding uses or the preservation of public health, safety, or welfare.

C3
/4**CONDITIONAL USE PERMIT REVIEW AND EVALUATION CRITERIA**

The following evaluation is included to provide staff position on each point of the conditional use permit criteria. Section 25-5-145 of the Land Development Code states:

A. "The Land Use Commission shall determine whether the proposed development or use of a conditional use site plan complies with the requirements of this section.

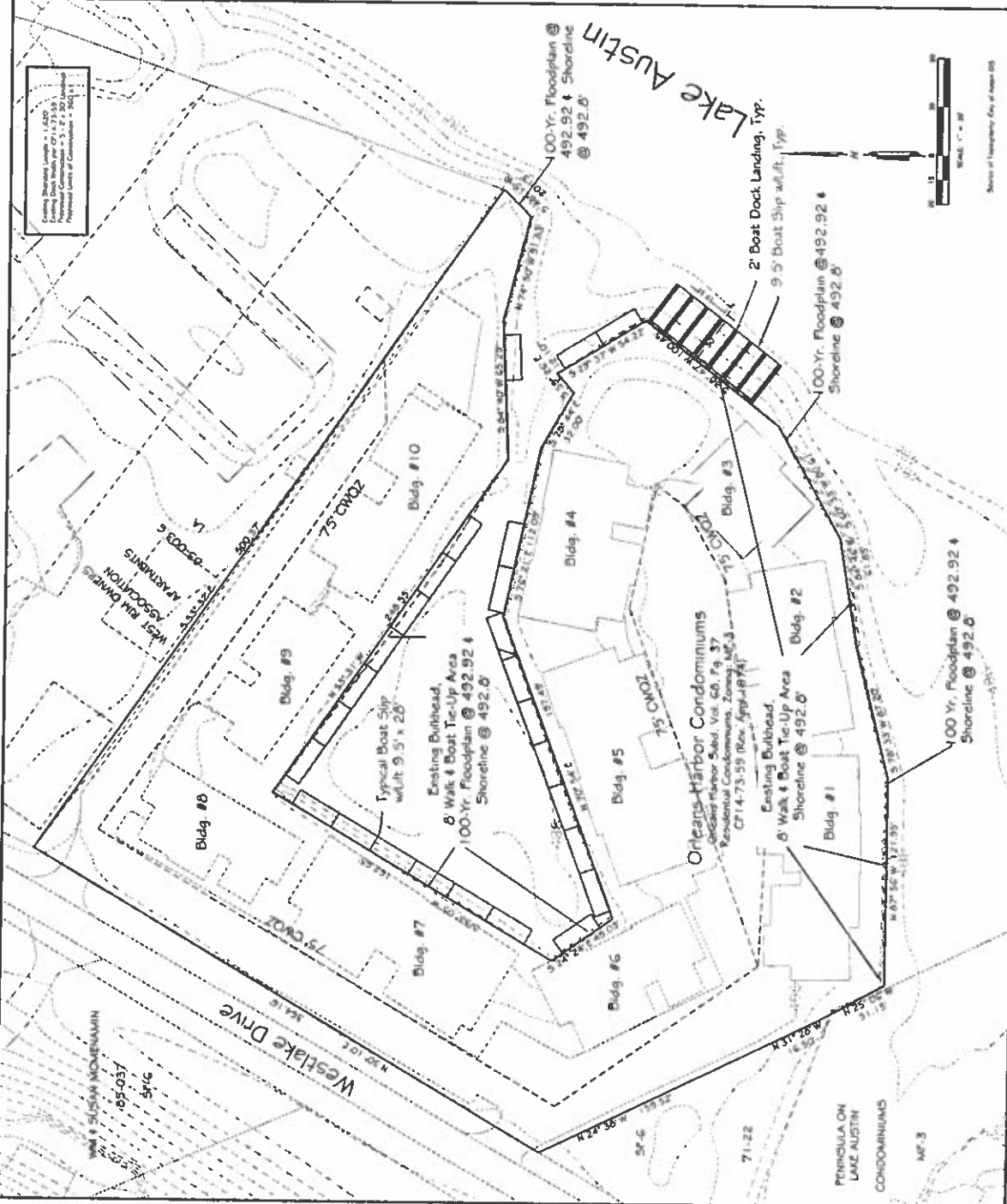
B. A Conditional Use Site Plan must:

1. Comply with the requirements of this title. Staff response: This application complies with the requirements of this title.
2. Comply with the objectives and purposes of the zoning district; Staff response: This application complies with the objectives and purposes of the zoning district.
3. Have building height, bulk, scale, setback, open space, landscaping, drainage, access, traffic circulation, and use that are compatible with the use of an abutting site; Staff response: This application is compatible with the abutting sites in all of these cases.
4. Provide adequate and convenient off-street parking and loading facilities; Staff response: This application will provide the required parking for this use.
5. Reasonably protect persons and property from erosion, flood, fire, noises, glare, and similar adverse effects; Staff response: The proposed project does not contribute to any of these adverse effects.

C. A Conditional Use Site Plan May Not:

1. More adversely affect an adjoining site than would a permitted use; Staff response: The site plan will conform to all regulations and standards established by the Land Development Code. This proposed site plan does not more adversely affect an adjoining site than would a permitted use.
 2. Adversely affect the safety or convenience of vehicular or pedestrian circulation, including reasonably anticipated traffic and uses in the area; Staff response: The site plan is not anticipated to be detrimental to safety or convenience. The site plan does not adversely affect the safety and convenience of vehicular and pedestrian circulation.
 3. Adversely affects an adjacent property or traffic control through the location, lighting, or type of signs; Staff response: No signage or lighting is proposed that would affect adjacent properties or traffic control. Compatibility notes are required on the plans to regulate lighting to shield the adjacent property from adverse effects.
- D. A site plan may not adversely affect the public health, safety, or welfare, or materially injure property. If the Land Use Commission determines that a site plan has an adverse effect or causes a material injury under this subsection, the Land Use Commission shall identify the adverse effect or material injury.

ORLEANS HARBOUR BOAT DOCK LANDING PLAN



Existing Shoreline Elevation: 492.0
 Existing Floodplain Elevation: 492.92
 Proposed Floodplain Elevation: 492.92
 Proposed Shoreline Elevation: 492.0

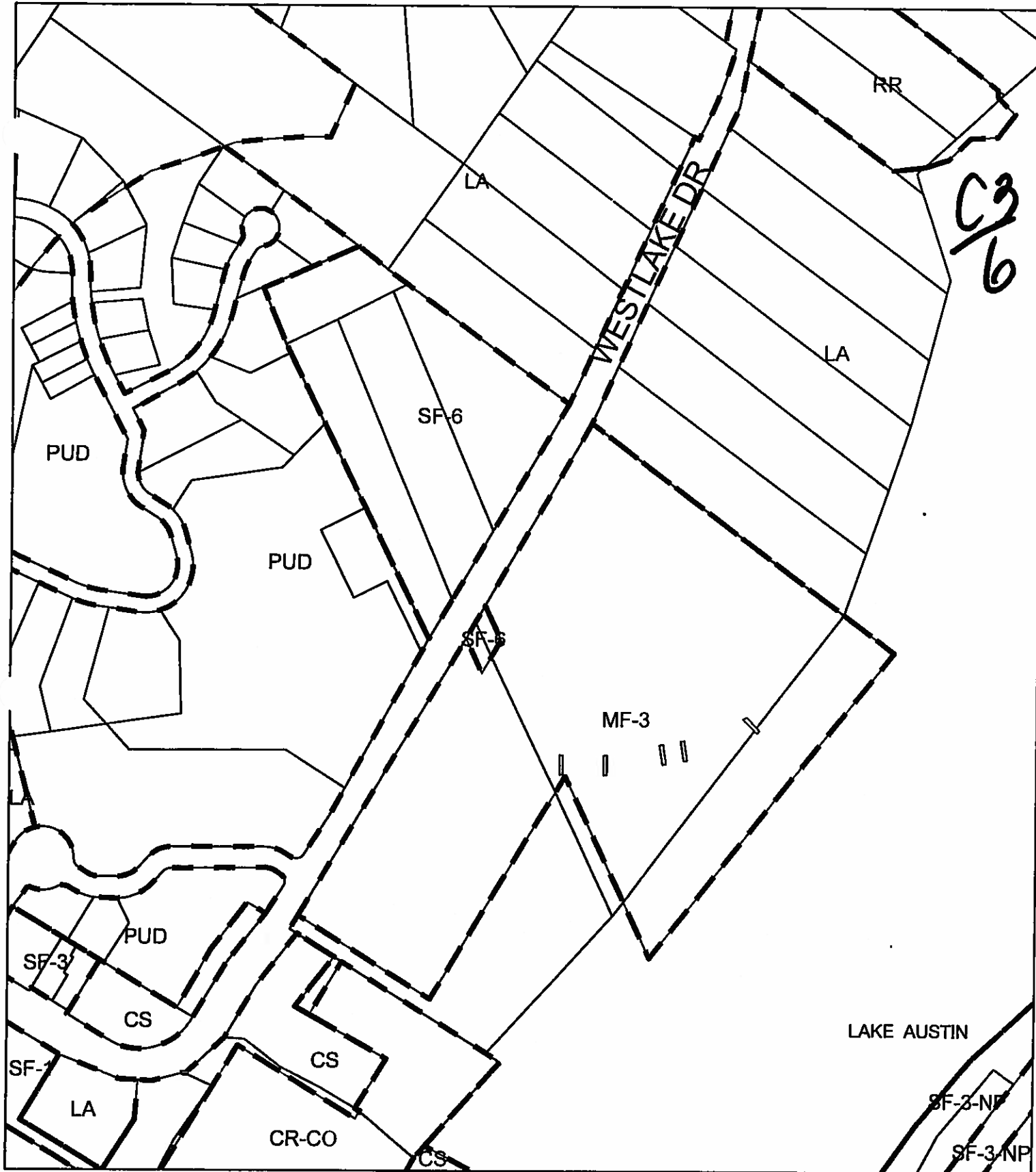
5/15/13

ORLEANS HARBOUR
 BOAT DOCK LANDING PLAN
 ELEVATIONS & PLAN VIEW

APPERLE COMPANY
 Engineering, Planning & Development Services
 14000 Westheimer Drive, Suite 100, Houston, Texas 77040



1. A DOCK MUST BE CONSTRUCTED TO BE LOCATED WITHIN THE SHORELINE BOUNDARY AND NOT BE LOCATED OUTSIDE THE SHORELINE BOUNDARY.
2. THE DOCK MUST BE LOCATED WITHIN THE SHORELINE BOUNDARY AND NOT BE LOCATED OUTSIDE THE SHORELINE BOUNDARY.
3. THE DOCK MUST BE LOCATED WITHIN THE SHORELINE BOUNDARY AND NOT BE LOCATED OUTSIDE THE SHORELINE BOUNDARY.
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7. THE DOCK MUST BE LOCATED WITHIN THE SHORELINE BOUNDARY AND NOT BE LOCATED OUTSIDE THE SHORELINE BOUNDARY.





0 40 80 160 Feet



CONDITIONAL USE SITE PLAN

CASE#: SPC-2011-0346D
 LOCATION: 2419 WESTLAKE BLVD.
 GRID: G25
 CASE MANAGER: MICHAEL SIMMONS-SMITH

 SUBJECT TRACT
 ZONING BOUNDARY



This product is for informational purposes and may not have been prepared for or be suitable for legal, engineering or surveying purposes. It does not represent an on-the-ground survey and represents only the approximate relative location of property boundaries.

PUBLIC HEARING INFORMATION

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- appearing and speaking for the record at the public hearing;

and:

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For additional information on the City of Austin's land development process, visit our web site: www.ci.austin.tx.us/development.

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Case Number: SPC-2011-0346D

Contact: Michael Simmons-Smith, 512-974-1225

Cindy Casillas, 512-974-3437

Public Hearing: Zoning and Planning Commission, May 1, 2012

KEVIN P HEGARTY

Your Name (please print)

2435 Westlake Drive, Austin, TX 78746

Your address(es) affected by this application

4/23/2012
Date

Signature

Daytime Telephone: 512 468 1404

Comments:

I support the proposal to allow the installation of 5 finger doctor Lakeside. It will allow the safe use of the development's bulkhead safely by the 9 Lakeside homeowners.

If you use this form to comment, it may be returned to:

City of Austin

Planning and Development Review - 4th floor

Michael Simmons-Smith

P. O. Box 1088

Austin, TX 78767-8810

4/23

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Contact: Michael Simmons-Smith, 512-974-1225

Cindy Casillas, 512-974-3437

Public Hearing: Zoning and Platting Commission, May 1, 2012

David Mantor

Your Name (please print)

☒ I am in favor
☐ I object

2451 Westlake Drive (Orleans Harbor)

Your address(es) affected by this application

7-27 4/25/12

Signature

Date

Daytime Telephone: 713.656.9180

Comments: We Support the Orleans Harbor application to construct 5 finger docks perpendicular to the lake side of the property. Permitting owners to park boats on the lake. We will allow all owners to keep boats as originally intended by the City's 1974 special use permit. The ability to do so will greatly increase safety within Orleans Harbor both in terms of boat security and recreational boaters getting on and off boats.

If you use this form to comment, it may be returned to:

City of Austin

Planning and Development Review - 4th floor

Michael Simmons-Smith

P. O. Box 1088

Austin, TX 78767-8810

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Contact: Michael Simmons-Smith, 512-974-1225

Cindy Casillas, 512-974-3437

Public Hearing: Zoning and Platting Commission, May 1, 2012

JAMES WELCH

Your Name (please print)

2401 Westlake Dr. Austin 78746

Your address(es) affected by this application

James Welch, (CP)

Signature

Date

6-29-12

Daytime Telephone: 512-350-6001

Comments:

If you use this form to comment, it may be returned to:

City of Austin

Planning and Development Review - 4th floor

Michael Simmons-Smith

P. O. Box 1088

Austin, TX 78767-8810

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Contact: Michael Simmons-Smith, 512-974-1225

Cindy Casillas, 512-974-3437

Public Hearing: Zoning and Platting Commission, May 1, 2012

Aubrey Meylan
Your Name (please print)



2427 Westlake Dr.

Your address(es) affected by this application

Aubrey C. Meylan 5-26-12
Signature Date

Daytime Telephone: 512-296-2923

Comments: Liability costs & a
danger of shortselling
the judges dock

If you use this form to comment, it may be returned to:

City of Austin

Planning and Development Review - 4th floor

Michael Simmons-Smith

P. O. Box 1088

Austin, TX 78767-8810

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10

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Case Number: SPC-2011-0346D

Contact: Michael Simmons-Smith, 512-974-1225

Cindy Casillas, 512-974-3437

Public Hearing: Zoning and Platting Commission, May 1, 2012



Your Name (please print)

Monterey

Your address(es) affected by this application

3437 Westlake Dr Spz 78746

Signature

Daytime Telephone:

Mary Jane Monter

Date

Comments:

Subject

If you use this form to comment, it may be returned to:

City of Austin

Planning and Development Review - 4th floor

Michael Simmons-Smith

P. O. Box 1088

Austin, TX 78767-8810

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12

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Cindy Casillas, 512-974-3437

Public Hearing: Zoning and Platting Commission, May 1, 2012

Edward Clark

Your Name (please print)

☒ I am in favor
☐ I object

2447 Westlake Dr. Austin, TX

Your address(es) affected by this application

Edward Clark

Signature

4/24/2012
Date

Daytime Telephone: 972-897-2527

Comments: I want to allow the board to safely do what the Council has already permitted, which is to park boats in the harbor and on the lakefront.

If you use this form to comment, it may be returned to:

City of Austin
Planning and Development Review - 4th floor
Michael Simmons-Smith
P. O. Box 1088
Austin, TX 78767-8810

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Contact: Michael Simmons-Smith, 512-974-1225

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Public Hearing: Zoning and Platting Commission, May 1, 2012

W.M. Howard Jr.

Your Name (please print)

Orleans Harbour Condos

2431 Westlake Dr.

Your address(es) affected by this application

Willie M. Howard, Jr.

Signature

3-25-12

Date

Daytime Telephone: (512) 327-1443

Comments: Opposed to heat lights at Orleans Harbour Condos.

(1) 30' heat into lake is unsafe -

An accident waiting to happen.

(2) Put to home owners in a

very hostile position.

(3) Could prevent us from being

able to maintain our current

shuttlehead.

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Planning and Development Review - 4th floor

Michael Simmons-Smith

P. O. Box 1088

Austin, TX 78767-8810

C3
13

Simmons-Smith, Michael

From: Elizabeth Sames <[REDACTED]>
Sent: Monday, June 04, 2012 5:02 PM
To: Simmons-Smith, Michael
Cc: 'Susan Griffith'; cdf@lobbyfortexas.com
Subject: Orleans Harbor proposed Boat Lifts

C3
14

Hello Michael,

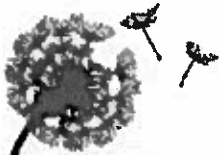
Curtis Fuelburg gave me your contact information and I am writing in regards to the petition to the city concerning Boat Docks at Orleans Harbor. My husband and I have been owners at Orleans Harbor for about 10 years now and have been part-time residents as our primary residence is in Laredo, Texas. We are completely against the proposal of having new docks built and new boat lifts added to the entire condominium project.

First of all, they put in the proposed project under our address without even asking us if they could use our address. Our address is 2419 Westlake Drive, 78746. There had already been a vote concerning this and we had voted against it within the Homeowners Association Board Meeting. That being said, they used our address anyway on the petition.

Secondly, we are against the raised boat lifts for a number of reasons: (a) they will be raised and will be high enough to be seen from our living room and den, absolutely outlandish that we, as residents, would have to look at everyone's boat! (b) the original condominium project utilized the existing water space to accommodate so many boats, it was not intended to add new "finger" boat docks on the lake side nor have boats lifted for whatever reason they are citing. The new finger docks that are proposed for the lakeside are really dangerous because they will not be protected, it will be a safety hazard on the lake and (c) the expense imposed upon us for something that is unnecessary because someone wants a dock and lift that preserves their boat is ridiculous-they can rent a slip at any number of marinas close by.

You can reach me by my cell listed below if you need further clarification, but for the record, Hank and Elizabeth Sames at 2419 Westlake Drive, Austin, TX 78746 are completely against the proposal for new docks and boat lifts. We will not be able to attend the July 3, 2012 meeting for this as we will be out of town.

Thank you for your time and consideration,



Laredo Area
Community Foundation

Elizabeth R. Sames

Board President

Laredo Area Community Foundation

P.O. Box 450223

Laredo, Texas 78045

(956)796-1700 office

(956)206-1121 cell

C3
15

C3
16

Homeowners Information Meeting
Boat Parking / Boat Lift Issue
July 28, 2012, 7:00 PM, Orleans Harbour Pool Area

- Option 1
 - Provide 33 boat parking spaces (one for each unit)
 - 24 boat lifts in the harbor
 - 5 finger docks and 9 boat lifts spread along the lakeside bulkhead
 - Solved the boat parking problem – provided option for owners to have boat lifts
- Vote
 - Approved by the majority of homeowners voting (15/29, 52%)
 - Vote was consistent with the By-Laws and has been verified as valid and legal
- Regulatory
 - The City of Austin has the regulatory authority to approve boat docks in Lake Austin
 - Board authorized hiring of an experienced consultant to help guide/expedite the permitting process and to seek administrative approval (~\$7500)
 - Determining the definitive rules has proven to be a challenge
 - December – only the 5 finger docks required permit, not boat lifts
 - June 5 – boat lifts, in addition to finger docks, require permitting
 - June 28 – only 5 finger docks require permitting, City will provide a formal letter
 - July 25 – finger docks and boat lifts require City permitting (Final)
 - City staff will not recommend administrative approval
 - ZAPCO (Zoning and Planning Commission) public hearing scheduled for August 21
- Liability/Insurance
 - Current Conditions (Harbor and Lakeside)
 - There is no legal requirement to install a barrier/fence around the perimeter of the harbor or lakeside
 - Insurance company has not required installation of a fence/barrier for Risk Control under current conditions (could change)
 - Installation of boat lifts and finger docks
 - HOA has liability associated with the installation of the finger docks and boat lifts in the common area
 - HOA has insurance coverage to cover the liability
 - Installation of a barrier/fence to limit access to the lifts and docks is not a legal requirement, but need to be able to defend “reasonable measures” were taken
 - Insurance company may/likely will require installation of a barrier/fence to limit access to the lifts and docks
- Safety
- Questions and Answers
- Forward Plan

C3
17

July 26, 2012

Dear Fellow Homeowners,

Saturday evening you will hear principally from those who have opposed implementing the boat lift and parking plan approved by the majority of homeowners more than a year ago. They have done a wonderful job stalling these matters with the City of Austin, inflating potential liabilities and risks and dividing our community. You will also hear that some on the board now believe there is significant new information such that we should scrap the approved plan and start over by voting on a "compromise plan" which adds boat parking but does not allow for boat lifts in the harbor. This doesn't feel like a compromise. I have no interest in continuing the debate. The majority of owners spoke in their vote more than two years ago by supporting Option 1. I also have no interest in continuing to serve on the board; I tendered my resignation effective immediately. While I will not be at Saturday's meeting, I do want you to know of my thoughts regarding some of the arguments that will be made Saturday evening. The following is an email note I sent to the Board earlier in the week...

Dear Board Colleagues,

Ellen and I visited with [board member name deleted] today regarding his belief that substantial new information has been discovered that could change how homeowners might have voted on this matter and therefore we should not implement Option #1 that was favored by the majority of owners. I disagree with his assessment of the situation and consequent recommendation for several reasons as follows:

First, legal counsel has advised that the board had the authority to act on the parking/lift proposal without a vote of the owners. Therefore, even if substantial new information has been discovered, which I believe is not the case, it really is irrelevant since the homeowner vote was only informational for the board and the board can act to implement Option 1 at will.

Second, regarding the liability issue, the HOA attorney has advised us that unless gross negligence is proven the HOA's exposure to liability present and future is statutorily limited and covered by its existing insurance. She also advised us that proving gross negligence given our situation would be very difficult and therefore not likely. Any liability is retained by the owner of the dock or lift, which is what we have told the owners all along. In the end, it is the owner's choice as to whether to install a lift or dock and incur that liability. But to infer if one installs all are exposed is not correct.

Third, regarding the issue of risks and the possibility of future risk measures being imposed by our insurance carriers, those risks are present today whether we install lifts or not. It is already possible we will have to take additional measures even if we do not allow lifts.

C3
18

Lastly, packaging the lifts and docks was a way of trying to give all parties a win in this vote. The majority who live on the harbor have no parking problem given they have by board rule first rights to the space in front of their unit. If the board separates the lifts from the docks the package deal changes substantially and the harbor owners have little reason to support a deal that gives the lakeside a win and gives nothing to the majority. I believe that proceeding to implement Option 1 is the best hope we have to solve the parking issue and give both parties a win.

I cannot believe that we have owners, including one on the board, who hire attorneys to litigate matters with their own neighbors when the vote doesn't go their way. It is a classic case of those in the minority trying to dictate to the majority by bullying; very sad. Do we allow the minority to dictate to the majority?

Saturday's meeting will not change the homeowner vote that occurred a year ago. The session is informational only. The board needs to be prepared at the meeting to own up to what it has decided to do. But this means making a decision now. And if the decision is to proceed to implement it also means we all need to work to get all homeowners to support it. If the decision is to defer making a decision or to not implement the homeowner approved option I think each of us needs to assess whether it is appropriate to serve on a board that does not serve the majority of owners. I personally have no intention of attending a meeting of the homeowners to deliver the message that the board is going to ignore the will of the majority and/or needs more time than a year to make its decision.

I am in favor of carrying out the will of the majority of owners and proceed to implement Option #1.

What does the Board want to do?

Kevin

...

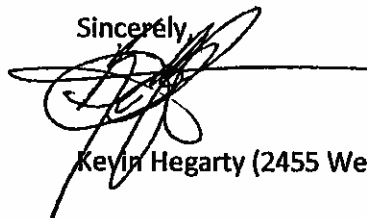
When my wife and I purchased our unit a year ago several owners, including one current board member, told me that the way to get things done for yourself is to get on the board and just do them. I have already been told by two owners that their solution to their future parking problem is to stop the approved proposal, get on the board and then change the boat parking rules such that they individually have rights to harbor parking over others. You may think this idea is farfetched. But look around and see all of those things you are paying for today in today's renovation of the development that are the product of former board members having done their own thing while on the board. Poor board practices have contributed to the run down condition of Orleans Harbor and have increased costs to you. I encourage each of you to think deeply about who you chose to represent your interests on the board, vote accordingly and hold them accountable for their actions lest we will lapse back into historical practice.

Orleans Harbor has a parking problem on the near horizon – 24 boat parking spots for 33 owners. As the harbor fills, the lack of sufficient space will result in at least 9 owners being told

C3
19

they cannot park their boat on the property. If you do not own a boat and/or you keep it at a marina this may not seem like your problem. But when you chose to sell and prospective buyers ask where they can park their boat, it will be your problem and it will negatively impact the value of your real estate. The debate of this past year demonstrates that there is no perfect solution. To have sufficient support for an imperfect solution compromise is in order. The marriage of boat lifts in the harbor, which some want, and solving the boat parking issue with docks, which some need, is a compromise. The "compromise solution" that will be offered Saturday evening is no compromise for those who want lifts. True compromise is in order if we are to succeed in protecting everyone's value at Orleans Harbour. For the any solution to work we must all support it, both that which we think is good and that which we think is not good. I encourage you to do what is right for all owners at Orleans Harbour, find compromise and support the boat parking and lift option that the majority of owners have already supported.

Sincerely,

A handwritten signature in black ink, appearing to be 'Kevin Hegarty', written over a horizontal line.

Kevin Hegarty (2455 Westlake Drive)

C3
20

To: Orleans Harbour Homeowners
From: Robert W. Beardsley
Date: July 26, 2012
Re: Boat parking / Boat lift plan

Dear Fellow Homeowners,

My name is Bob Beardsley, I am a replacement Board Member for the unexpired term (ends at the annual meeting this year) for Bill Race who resigned from the Board when he moved. My replacement position on the Board was by Board vote. Because you did not have an opportunity to decide to vote for me as a Board member, I would like to provide some background information for you.

- I am a long term property owner in Orleans Harbour and our unit is on the lakeside.
- I opposed installation of Boat Docks and Boat Lifts (Option 1) because I was concerned about safety, liability, aesthetic (would the harbor have to be fenced?), and insurance ramifications.
- I respect the fact that this is a democratic process and my neighbors can outvote me. But, also believe that in a vote of this magnitude, the decision should be a fully-informed decision.
- Beginning in October of 2011, I requested information regarding safety, liability and insurance matters associated with Option 1, as the information made available at the time of the vote did not address certain items that I believed very important (again, ramifications on safety, liability, aesthetics, and insurance)..
- The responses I received did not appear to be consistent with my experiences. In May, I suggested to a then-Board member that the Board seek legal counsel to address the liability question. The response I received was that if we are to explore the liabilities related to lifts and docks, this member would also insist that we also look into liability issue for multiple cars, rooftop decks and spas and pets off leash at the same time. In hindsight I should have reiterated my request formally to the full board, but believed at the time that this opinion was representative of the board as a whole's lack of desire to consult with association legal counsel.
- I have continued to pursue the issues of safety, liability and insurance regarding implementation of Option 1.
- Somewhat out of frustration regarding what I perceived to be the lack of additional information forthcoming from the HOA, on May 22, I joined with another homeowner in retaining the services of a lawyer and land planner to better understand the procedures associated with the City Zoning and Planning Commission (ZAPCO), which is the regulatory authority reviewing the Orleans Harbour boat dock application.
- I was elected to the Board on June 1 by Board vote to replace Bill Race.
- After joining the Board, I disassociated myself from the relationship with the lawyer and land planner, as it created a potential conflict of interest.
- I did not in any way participate in the subsequent formal protest of the Orleans Harbour permitting process for the proposed finger docks.

With that said, I will tell you that my intention since joining the Board has been to get answers to questions regarding the safety, liability and insurance issues which I first raised in October of last year. To that end I have met with Connie Heyer with Niemann and Heyer, LLP, the attorney representing Orleans Harbour and Patrick Watkins with Watkins Insurance, the agent currently representing Orleans Harbour on insurance matters. The entire Board met with Connie and Patrick on July 13. Each of the Board members provided questions related to

C3
21

insurance and liability. The written responses to those questions are included in the homeowner information package. This approach was designed to provide an independent written record regarding the insurance and liability issues that were first raised last October. (I will encourage you to read the written responses from Patrick Watkins regarding contacting the insurance company prior to installing the boat lifts, as the response was written after the initial meeting with the Board and included clarification of his position during a one hour conference call with myself, the property manager and a Board member).

This appears to be new information to me that and I hope you find it helpful for you.

- There is HOA liability associated with installation of finger docks and boat lifts on the "common area" along the lakeside bulkhead.
- There is HOA liability associated with installation of boat lifts on the "common area" along the harbor bulkhead.
- There are no specific laws or regulations controlling the safety requirements for a harbor, boat docks or boat lifts. This is different from swimming pools, which are regulated and require controlled access by fencing and automatic closing gates with locks.
- Risk control specialists working for insurance companies will typically require the installation of barriers to protect/separate people from potential safety hazards.
- There are existing safety concerns associated with the current configuration of the harbor, as there is no perimeter barrier/fence to prevent access to the harbor. These concerns have not been at the forefront and no insurance risk consultant has required us to install a harbor barrier, but the lift matter would likely trigger a closer look by insurance.
- There are considerably greater safety concerns associated with the installation of the boat lifts in the harbor than the current boat parking in the harbor, as the boat lifts may be considered as hidden defects or submerged hazards.
- There is a significantly higher probability that a risk control specialist will require installation of a fence around the harbor, if 24 boat lifts are installed in the harbor.
- Once risk control requirements are established by an insurance company, purchase of insurance for the HOA will be conditioned upon fulfilling these requirements. (Due to Orleans Harbor being located on water, the pool of insurance companies that will write the Orleans Harbour liability policy is limited)

In addition to the insurance and liability issues which have been addressed separately by Connie Heyer and Patrick Watkins, there is a more personal issue regarding the safety of the Orleans Harbour residents, their families and guests. Installation of the boat lifts in the harbor without a barrier/fence to separate people from what has been described as a hidden defect or submerged hazard results in a significant increase in the chance of someone getting hurt. In addition to the boat lift itself that can be submerged without a boat, the diagram provided shows the top of each leg is a 2.5" square that is always submerged under water. If you fall on it, there is a high probability of significant injury.

The safety issue is not an insurance issue, not legal/liability issue, it is a quality of life and conscience issue for each homeowner. The comfort you can take from having insurance coverage through the HOA, which protects each owner from financial exposure by statute for a maximum of \$1,000,000 per occurrence and \$500,000 per person will provide little relief to one's conscience when an injury or worse occurs related to installation of the lifts without a protective barrier.

C3/22

As a result of this new information, I believe the Boat parking/boat lift plan (Option 1) has potential consequences which were unforeseen at the time it was proposed and passed.

- There is liability for the HOA, as well as the potential for personal liability. This liability can be covered by insurance, but at a price (an aesthetic price, in addition to a possible premium increase.)
- There will be the potential need to construct, at homeowner expense, either mandated by the residents for the safety of Orleans Harbour residents and guests, or as required by risk control specialists from the insurance companies:
 - An automatic closing, locked gate and fence to limit access for each of the five finger docks proposed along the lakeside bulkhead
 - An automatic closing, locked gate and fence to limit access to the boat lifts proposed to be installed around the perimeter of the harbor
- There are safety and resulting liability issues associated with the potential for failure of the marine safety lights on each of the separate finger docks.

Proposed Compromise

A compromise was proposed which provides for 33 boat parking spaces which will result in a safe environment for the residents and guests visiting Orleans Harbour. The proposed plan was to consolidate the 5 finger docks to the area immediately adjacent to the bulkhead offsetting the pool (lifts and finger docks perpendicular to the bulkhead). This configuration would allow for 24 boats to be moored in the harbor and 9 boats to be accessed by the finger docks and parked on lifts adjacent to the pool area bulkhead. The 9 boats on lifts would be isolated first by the fencing around the pool area and then by a proposed fence with an automatic closing, locked gate between the pool area and the bulkhead, probably along the sidewalk. This plan would provide for a barrier that would satisfy both homeowner safety concerns and would satisfy all insurance mandated requirements. By consolidating the finger docks, issues associated with the potential for having a marine safety light out on a single dock seem to be mitigated. The pool area is elevated and the loss of view should be minimized. As to who get to use the lifts, it is up to a Board decision, but many of the lakeside residents, including myself, do not plan to dock our boats at Orleans Harbour. This would seem to provide an opportunity for those living on the harbor, most interested in having a boat lift, to achieve their objective.

A second independent step was also proposed to let the homeowners vote to decide if the safety issues and the probability of being mandated to install a fence around the harbor were significant enough issues not to want boat lifts in the harbor. If they are not significant issues then the homeowners can decide by a separate vote to put lifts in the harbor.

The proposed compromise was rejected because lifts in the harbor were not included as part of the initial compromise. There was no interest in solving the parking problem, if the harbor did not get lifts.

I welcome alternate plans to solve the parking issue which will result in a safe environment for the residents and guests visiting Orleans Harbour. Again, my overriding desire is that we as a community make a fully-informed decision, whatever that decision may be.

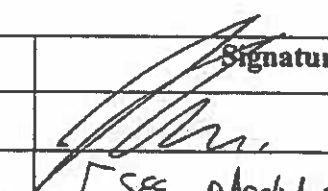
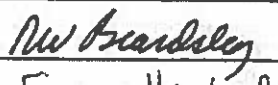
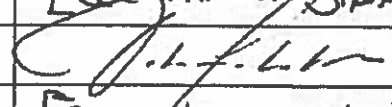

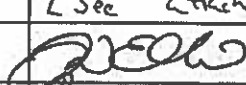
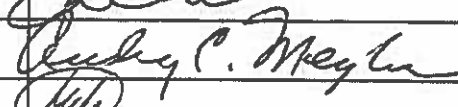

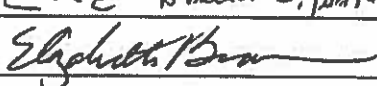
Regards,

Bob

C3/23

**Orleans Harbour
Petition in Support of City of Austin Site Plan**

The undersigned unit owners of Orleans Harbour Condominiums support the revised site plan submitted to the City of Austin by the Orleans Harbor Board. In mid-2011, a similar boat parking plan was voted by the homeowners, with 52% of the votes favoring that plan. In response to continued opposition to that plan by a number of unit owners, the Board worked with the opponents to devise a revised boat parking plan that would be agreeable to a larger majority of unit owners. The undersigned unit owners strongly support this revised plan, a copy of which is attached.

Unit	Unit Owner Last Name	Signature	Date
2401	Welch		08/01/12.
2403	Richardson	[See Attached Signature]	(1)
2405	Beardsley		8/2/12
2407	Young	[see attached signature]	(2)
2409	Moran		
2411	Hibler	[See Attached Signature]	(3)
2413	Firnhaber		8-5-12
2415	Griffith	[See attached signature]	(4)
2417	Gutierrez	[See attached signature]	(5)
2419	Sames	[See Attached Signature]	(4)
2421	Majors		8/2/2012
2423	Cordelle	[See attached signature]	(6)
2425	Ellis		8/2/2012
2427	Meylan		8-6-12
2429	Lougheed		8-1-12
2431	Howard		
2433	Carameros	[see attached signature]	(7)
2435	Cardinal	[see attached signature]	(8)
2437	Marcus	[See Attached Signature]	(9)
2439	Brannon		8-2-12

C3
24

Orleans Harbour
Petition in Support of City of Austin Site Plan

2441	Rogers	[see attached signature]	(10)
2443	Benson		
2445	Roheim	Kathie Roheim	
2447	Clark	[See attached signature]	(11)
2449	Eckols	Frances Eckols	8/2/12
2451	Mantor	J. S. ~	8/2/12
2453	Witt	Ann Witt	8/2/12
2455	Hegarty	[Signature]	8/3/12
2457	Moore	Sharon Moore	8/1/12
2459	Said	M/S	8/1/12
2461	Sasser	[See Attached Signature]	(12)
2463	Jacks	[See Attached Signature]	(13)
2465	Wisembaker	Wesley Wisembaker	8/2/12

C3
25①

Orleans Harbour
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Unit	Unit Owner Last Name	Signature	Date
2401	Welch		
2403	Richardson	<i>Shannon Richardson</i>	8-7-12
2405	Beardsley		
2407	Young		
2409	Moran		
2411	Hibler		
2413	Firnhaber		
2415	Griffith		
2417	Gutierrez		
2419	Samcs		
2421	Majors		
2423	Cordelle		
2425	Ellis		
2427	Meylan		
2429	Lougheed		
2431	Howard		
2433	Carameros		
2435	Cardinal		
2437	Marcus		
2439	Brannon		

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Unit	Unit Owner Last Name	Signature	Date
2401	Welch		
2403	Richardson		
2405	Beardsley		
2407	Young	John H Young	8/01/12
2409	Moran		
2411	Hibler		
2413	Firnhaber		
2415	Griffith		
2417	Gutierrez		
2419	Sames		
2421	Majors		
2423	Cordelle		
2425	Ellis		
2427	Meylan		
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Orleans Harbour Petition in Support of City of Austin Site Plan

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2401	Welch		
2403	Richardson		
2405	Bondale		
2407	Young		
2409	Moran		
2411	Hibler	<i>Lucy Hibler</i>	3/14/12
2413	Pindner		
2415	Griffith		
2417	Gusterson		
2419	Seneca		
2421	Majors		
2423	Cordelle		
2425	Ellis		
2427	Meylan		
2429	Loughood		
2431	Howard		
2433	Cummings		
2435	Cardinal		
2437	Menzies		
2439	Brannon		

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28

**Orleans Harbour
Petition In Support of City of Austin Site Plan**

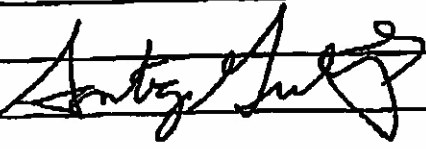
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2409	Moran		
2411	Hibler		
2413	Firnhaber		
2415	Griffith	<i>Juan Griffith</i>	8/6/12
2417	Gutierrez		
2419	Sames	<i>Sames</i>	8/4/12
2421	Majors		
2423	Cordelle		
2425	Ellis		
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2429	Lougheed		
2431	Howard		
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29

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2419	Sames		
2421	Majors		
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2429	Lougheed		
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30

**Orleans Harbour
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2411	Hibler		
2413	Firnhaber		
2415	Griffith		
2417	Gutierrez		
2419	Sames		
2421	Majors		
2423	Cordelle		8-3-12
2425	Ellis		
2427	Meylan		
2429	Loughheed		
2431	Howard		
2433	Carameros		
2435	Cardinal		
2437	Marcus		
2439	Brannon		

**Orleans Harbour
Petition in Support of City of Austin Site Plan**

⑦ C3
31

The undersigned unit owners of Orleans Harbour Condominiums support the revised site plan submitted to the City of Austin by the Orleans Harbor Board. In mid-2011, a similar boat parking plan was voted by the homeowners, with 52% of the votes favoring that plan. In response to continued opposition to that plan by a number of unit owners, the Board worked with the opponents to devise a revised boat parking plan that would be agreeable to a larger majority of unit owners. The undersigned unit owners strongly support this revised plan, a copy of which is attached.

Unit	Unit Owner Last Name	Signature	Date
2401	Welch		
2403	Richardson		
2405	Beardsley		
2407	Young		
2409	Moran		
2411	Hibler		
2413	Firnhaber		
2415	Griffith		
2417	Gutierrez		
2419	Sames		
2421	Majors		
2423	Cordelle		
2425	Ellis		
2427	Meylan		
2429	Lougheed		
2431	Howard		
2433	Carameros, <i>President of 2433 White Lake Inc</i>	<i>Chris Carameros</i>	<i>8/2/2012</i>
2435	Cardinal		
2437	Marcus		
2439	Brannon		

**Orleans Harbour
Petition in Support of City of Austin Site Plan**

⑧ C3/32

The undersigned unit owners of Orleans Harbour Condominiums support the revised site plan submitted to the City of Austin by the Orleans Harbor Board. In mid-2011, a similar boat parking plan was voted by the homeowners, with 52% of the votes favoring that plan. In response to continued opposition to that plan by a number of unit owners, the Board worked with the opponents to devise a revised boat parking plan that would be agreeable to a larger majority of unit owners. The undersigned unit owners strongly support this revised plan, a copy of which is attached.

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2411	Hibler		
2413	Firnhaber		
2415	Griffith		
2417	Gutierrez		
2419	Sames		
2421	Majors		
2423	Cordelle		
2425	Ellis		
2427	Meylan		
2429	Lougheed		
2431	Howard		
2433	Carameros		
2435	Cardinal	<i>D. Cardinal</i>	8/2/12
2437	Marcus		
2439	Brannon		

**Orleans Harbour
Petition in Support of City of Austin Site Plan**

The undersigned unit owners of Orleans Harbour Condominiums support the revised site plan submitted to the City of Austin by the Orleans Harbor Board. In mid-2011, a similar boat parking plan was voted by the homeowners, with 52% of the votes favoring that plan. In response to continued opposition to that plan by a number of unit owners, the Board worked with the opponents to devise a revised boat parking plan that would be agreeable to a larger majority of unit owners. The undersigned unit owners strongly support this revised plan, a copy of which is attached.

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2415	Griffith		
2417	Gutierrez		
2419	Sames		
2421	Majors		
2423	Cordelle		
2425	Ellis		
2427	Meylan		
2429	Lougheed		
2431	Howard		
2433	Carameros		
2435	Cardinal		
2437	Marcus	<i>Mary Jane Marcus</i>	8/4/12
2439	Brannon		

Orleans Harbour
Petition in Support of City of Austin Site Plan

(10)
C3/34

2441	Rogers	G. Rogers	8/1/12
2443	Benson		
2445	Roheim		
2447	Clark		
2449	Eckols		
2451	Mantor		
2453	Witt		
2455	Hegarty		
2457	Moore		
2459	Said		
2461	Sasser		
2463	Jacks		
2465	Wisenbaker		

Orleans Harbour
Petition in Support of City of Austin Site Plan

11
C3/35

2441	Rogers		
2443	Benson		
2445	Roheim		
2447	Clark	<i>Handed to Pamela Clark 8/3/12</i>	
2449	Eckols		
2451	Mantor		
2453	Witt		
2455	Hegarty		
2457	Moore		
2459	Said		
2461	Sasser		
2463	Jacks		
2465	Wisnbaker		

12
C3/36

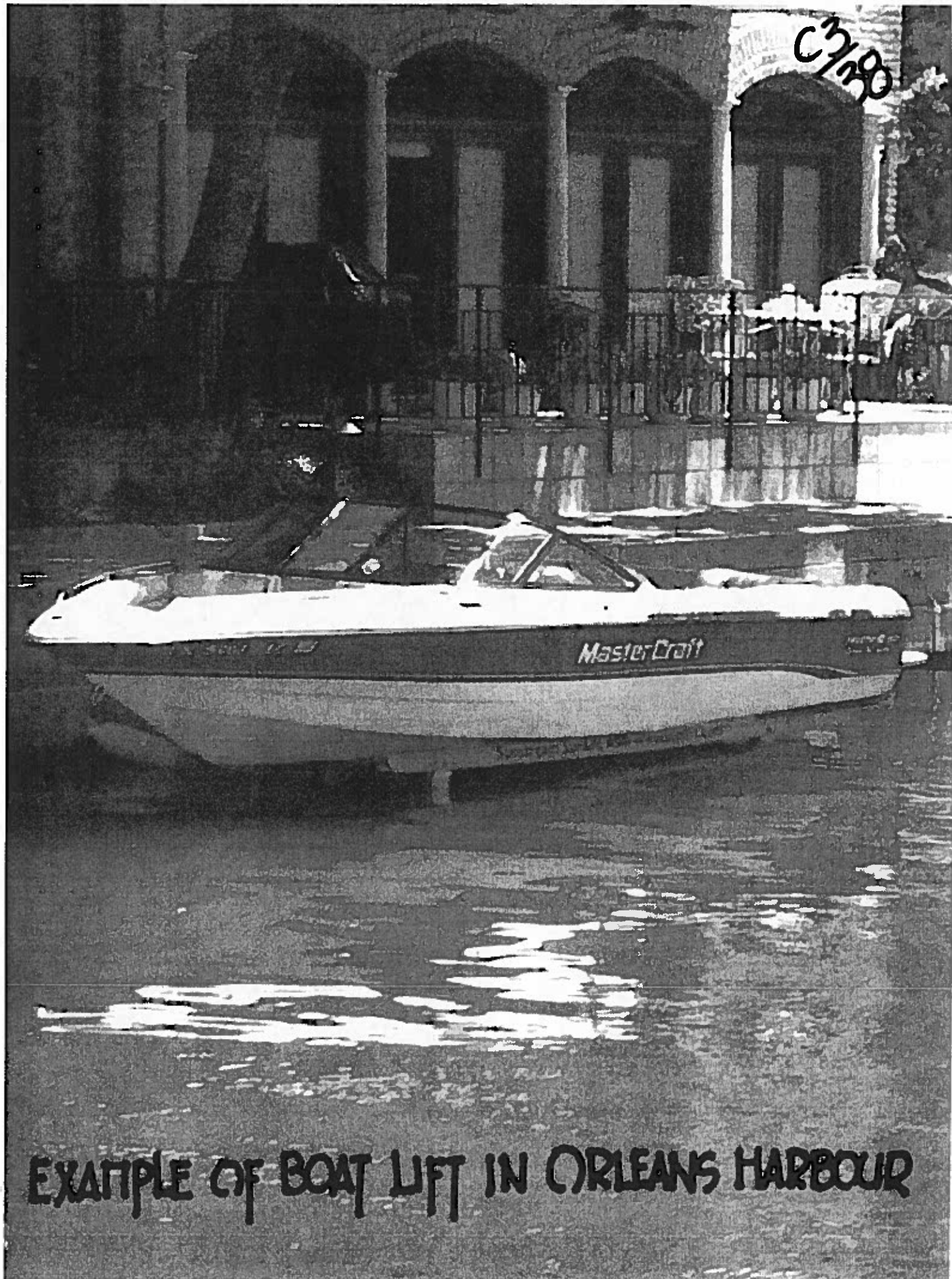
**Orleans Harbour
Petition in Support of City of Austin Site Plan**

2441	Rogers		
2443	Benson		
2445	Roheim		
2447	Clark		
2449	Eckols		
2451	Mantor		
2453	Witt		
2455	Hegarty		
2457	Moore		
2459	Said		
2461	Sasser	<i>Miss Sam</i>	8/2
2463	Jacks		
2465	Wisembaker		

13
C3/37

Orleans Harbour
Petition in Support of City of Austin Site Plan

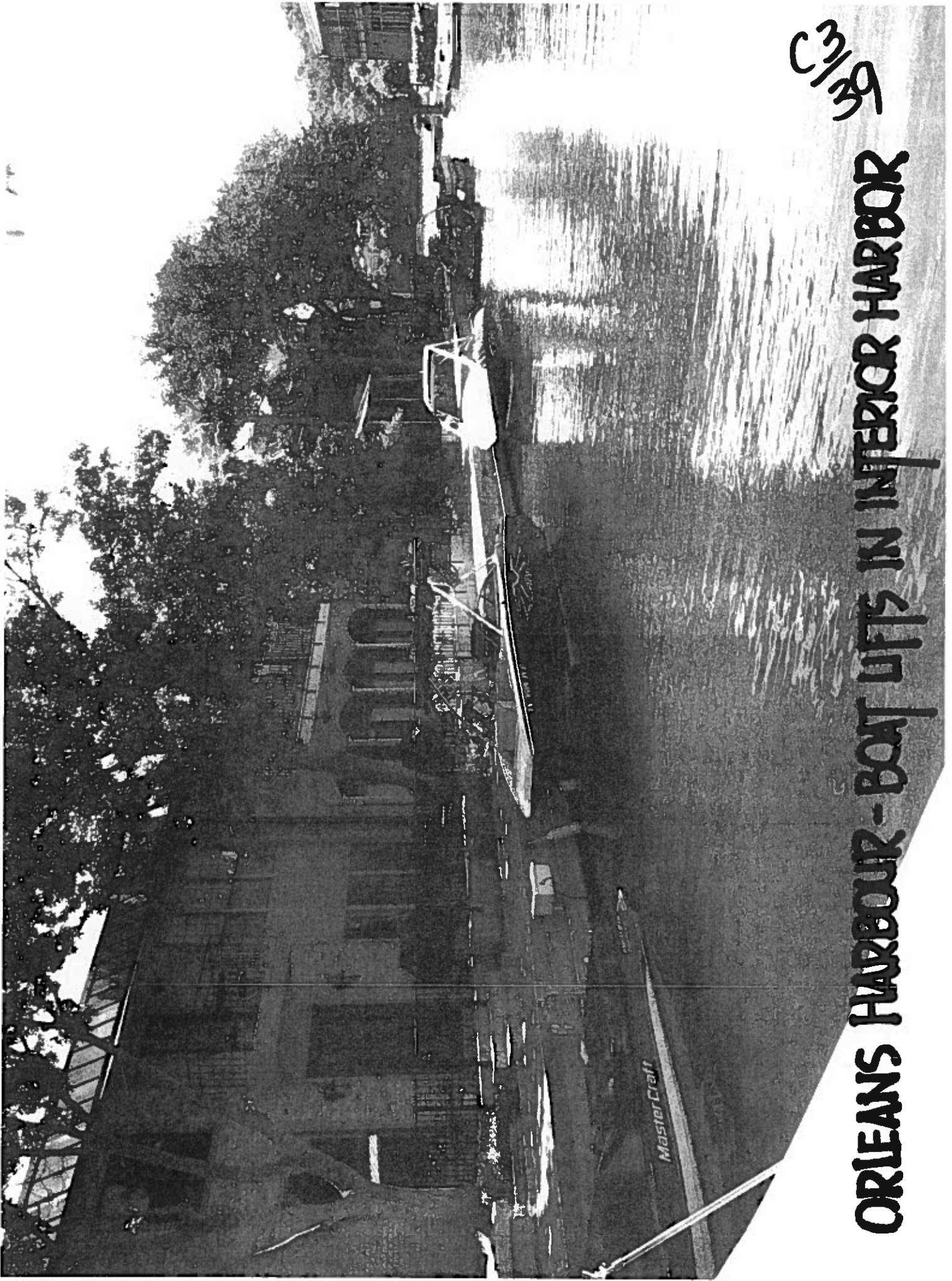
2441	Rogers		
2443	Benson		
2445	Roheim		
2447	Clark		
2449	Eckols		
2451	Mantor		
2453	Witt		
2455	Hegarty		
2457	Moore		
2459	Said		
2461	Sasser		
2463	Jacks	<i>Donay & Chum Steen</i>	9/6/12
2465	Wisembaker		



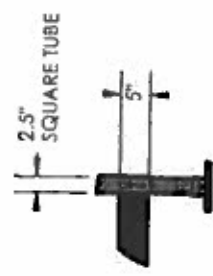
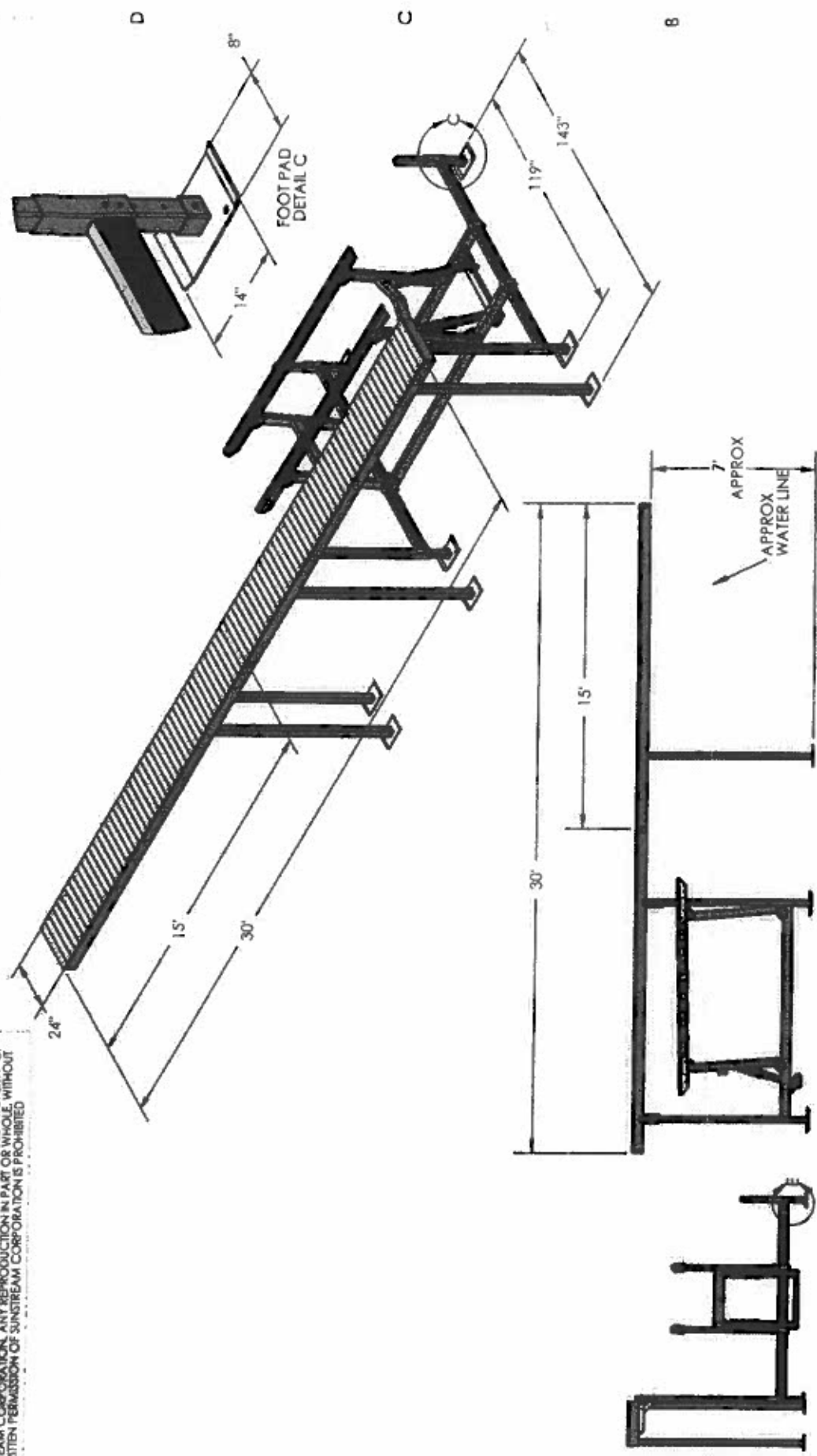
EXAMPLE OF BOAT LIFT IN ORLEANS HARBOUR

C3/32

ORLEANS HARBOUR - BOAT LIFTS IN INTERIOR HARBOR

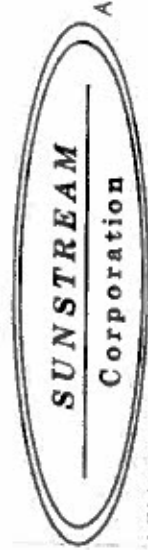


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2 PLACE DECIMALS $\pm .030$
3 PLACE DECIMALS $\pm .010$
FRACTIONS $\pm 1/16$
ANGLES $\pm 1^\circ$
MACHINED INSIDE RADIUS
.015 MAX.
BREAK ALL SHARP EDGES
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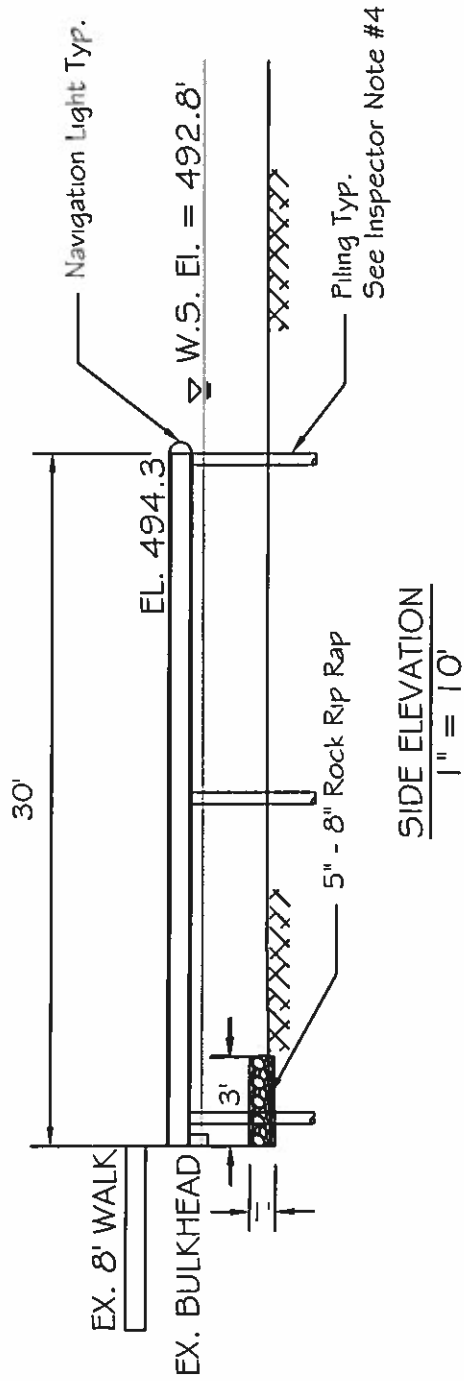
CAD GENERATED DRAWING.
DO NOT MANUALLY UPDATE.
APPROVALS: DESIGNER, DATE, DRAWN DS, 3/21/2012, PART DESCRIPTION: SUN LIFT CAT WALK DEMONSTRATION



C3/40

REV: 1
SHEET: 3 of 3
PRINT DATE: 3/21/2012
SCALE: 1/2"

BOAT LIFT ADJACENT TO DOCK



PROJECT ADDRESS: 2401 - 2465 WESTLAKE DRIVE

ROCK & RIPRAP "TOE" DETAIL

C3
H1