

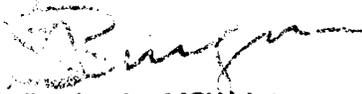
Memorandum

MIAMI-DADE
COUNTY

Date: February 18, 2010
To: Honorable Chairman Dennis C. Moss
and Members, Board of County Commissioners

Agenda Item No. 5(D)

From: George M. Burgess
County Manager



Subject: Resolution Relating to an Application by MSW Intracoastal Mall, LLC for a Class I Permit and to Request a Variance from Section 24-48.24 of the Code of Miami-Dade County, Florida, to Authorize Non-Water-Dependent Fixed Structures, a Deck and Canopy Over Tidal Waters Associated with an Upland Restaurant at 3501 Sunny Isles Blvd., North Miami Beach, Miami-Dade County

Attached, please find for your consideration an application by MSW Intracoastal Mall, LLC for a Class I permit and request for a variance from Section 24-48.24. Also attached is the recommendation of the Director of the Department of Environmental Resources Management and a Resolution seeking the Board's approval of the aforesaid Class I permit and request for a variance.


Assistant County Manager

Memorandum



Date: February 18, 2010

To: George M. Burgess
County Manager

From: Carlos Espinosa, P.E., Director
Environmental Resources Management

Subject: Class I Permit Application by MSW Intracoastal Mall, LLC and to Request a Variance from Section 24-48.24 of the Code of Miami-Dade County, Florida, to Authorize Non-Water-Dependent Fixed Structures, a Deck and Canopy Over Tidal Waters Associated with an Upland Restaurant

Recommendation

I have reviewed the attached Class I permit application by MSW Intracoastal Mall, LLC. Based upon the applicable evaluation factors set forth in Section 24-48.3 and Section 24-48.25 of the Code of Miami-Dade County (Code), Florida, I recommend that the Board of County Commissioners (BCC) approve the issuance of a Class I permit for the reasons set forth below.

Scope

The project site is located at 3501 Sunny Isles Blvd., North Miami Beach, Miami-Dade County, in Commission District 4.

Fiscal Impact/Funding Source

Not applicable.

Track Record/Monitor

Not applicable.

Background

The subject Class I permit application involves the authorization for an existing over-water deck to be used as a dining area for an adjacent upland restaurant, and for the installation of a canopy above the over-water deck, at 3501 Sunny Isles Blvd. The deck and canopy are non-water-dependent fixed structures, and are prohibited pursuant to Section 24-48.24 of the Code. Therefore, the applicant is seeking a variance from this prohibition at a public hearing before the BCC, as provided for in Section 24-48.25 of the Code.

The project site consists of a commercial property with an upland mall and restaurant adjacent to the Intracoastal Waterway. The applicant proposes to operate the restaurant and use a permitted over-water marginal wood deck as a dining area. The deck will provide the diners with visual access to the Intracoastal Waterway and the canopy will protect them from the elements. Prior to recent renovations, a canopy existed at the site since 1994 but was unpermitted. An in-water benthic survey conducted by DERM biologists revealed minimal resources within the area of the existing deck, and the canopy will not extend beyond the footprint of the deck. Since the installation and use of these structures is not likely to result in adverse environmental impacts or cumulative adverse environmental impacts, DERM recommends that a variance for these non-water-dependent fixed structures be granted.

The proposed project has been designed in accordance with all relevant Miami-Dade County coastal construction criteria and is consistent with all other Miami-Dade County coastal protection provisions. Please find attached a DERM Project Report which sets forth the reasons the proposed project is recommended for approval by DERM pursuant to the applicable evaluation factors set forth in Section 24-48.3 and Section 24-48.25 of the Code. The conditions, limitations, and restrictions set forth in the Project Report attached hereto are incorporated herein by references hereto.

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Attachments

- Attachment A: Class I Permit Application
- Attachment B: Permit Applicant/Authorized Agent Statement, Engineer Certification Letter and Project Sketches
- Attachment C: Zoning Memorandum
- Attachment D: Names and Addresses of Owners of All Riparian Property within Three Hundred (300) Feet of the Proposed Work
- Attachment E: DERM Project Report

NOTICE OF PUBLIC HEARING ON AN APPLICATION BY
MSW INTRACOASTAL MALL, LLC FOR A CLASS I PERMIT
AND TO REQUEST A VARIANCE FROM SECTION 24-48.24
OF THE CODE OF MIAMI-DADE COUNTY, FLORIDA, AND
TO AUTHORIZE NON-WATER-DEPENDENT FIXED
STRUCTURES, A DECK AND CANOPY OVER TIDAL
WATERS ASSOCIATED WITH AN UPLAND RESTAURANT
AT 3501 SUNNY ISLES BLVD., NORTH MIAMI BEACH, MIAMI-
DADE COUNTY, FLORIDA

BOARD OF COUNTY COMMISSIONERS
MIAMI-DADE COUNTY, FLORIDA

NOTICE IS HEREBY GIVEN pursuant to Article IV, Division 1 of Chapter 24 of the Code of Miami-Dade County that the Board of County Commissioners of Miami-Dade County will hold and conduct a public hearing on a request by MSW Intracoastal Mall, LLC for a Class I permit and a request for a variance from Section 24-48.24 of the Code of Miami-Dade County, Florida, to authorize non-water-dependent fixed structures, a deck and canopy over tidal waters associated with an upland restaurant at 3501 Sunny Isles Blvd., North Miami Beach, Miami-Dade County. Such public hearing will be held on the 18th day of February, 2010, at 9:30 AM, at the County Commission Chambers on the 2nd Floor of the Stephen P. Clark Center at 111 NW 1st Street in Miami, Florida.

Plans and details concerning the work requested in the application may be reviewed by interested persons at the office of the Miami-Dade County Department of Environmental Resources Management, 4th Floor, 701 NW 1st Court, Miami, FL 33136.

Oral statements will be heard and appropriate records made. For accuracy of records, all important facts and arguments should be prepared in writing in triplicate, with two copies being submitted to the Deputy Clerk of the County Commission at the hearing or mailed to her beforehand (Diane Collins, Deputy Clerk), 111 NW 1st Street, Stephen P. Clark Center, Suite 17-202, Miami, Florida 33128; and with one copy being submitted beforehand to the Miami-Dade County Department of Environmental Resources Management, 4th Floor, 701 NW 1st Court, Miami, FL 33136.

A person who decides to appeal any decision made by any Board, Agency, or Commission with respect to any matter considered at its meeting or hearing, will need a record of proceedings. Such person may need to ensure that a verbatim record of the proceedings is made, including the testimony and evidence upon which the appeal is to be based.

BOARD OF COUNTY COMMISSIONERS
MIAMI-DADE COUNTY, FLORIDA

HARVEY RUVIN, CLERK

BY: _____
Diane Collins, Deputy Clerk



MEMORANDUM
(Revised)

TO: Honorable Chairman Dennis C. Moss
and Members, Board of County Commissioners

DATE: February 18, 2010

FROM: R. A. Cuevas, Jr.
County Attorney

SUBJECT: Agenda Item No. 5(D)

Please note any items checked.

- "3-Day Rule" for committees applicable if raised
- 6 weeks required between first reading and public hearing
- 4 weeks notification to municipal officials required prior to public hearing
- Decreases revenues or increases expenditures without balancing budget
- Budget required
- Statement of fiscal impact required
- Ordinance creating a new board requires detailed County Manager's report for public hearing
- No committee review
- Applicable legislation requires more than a majority vote (i.e., 2/3's ____, 3/5's ____, unanimous ____) to approve
- Current information regarding funding source, index code and available balance, and available capacity (if debt is contemplated) required

Approved _____ Mayor
Veto _____
Override _____

Agenda Item No. 5(D)
2-18-10

RESOLUTION NO. _____

RESOLUTION RELATING TO AN APPLICATION BY MSW INTRACOASTAL MALL, LLC FOR A CLASS I PERMIT AND TO REQUEST A VARIANCE FROM SECTION 24-48.24 OF THE CODE OF MIAMI-DADE COUNTY, FLORIDA, TO AUTHORIZE NON-WATER-DEPENDENT FIXED STRUCTURES, A DECK AND CANOPY OVER TIDAL WATERS ASSOCIATED WITH AN UPLAND RESTAURANT AT 3501 SUNNY ISLES BLVD., NORTH MIAMI BEACH, MIAMI-DADE COUNTY, FLORIDA

WHEREAS, this Board desires to accomplish the purposes outlined in the accompanying memorandum, a copy of which is incorporated herein by reference,

NOW, THEREFORE, BE IT RESOLVED BY THE BOARD OF COUNTY COMMISSIONERS OF MIAMI-DADE COUNTY, FLORIDA, that this Board having considered all the applicable factors contained within Section 24-48.3 and Section 24-48.25 of the Code of Miami-Dade County, Florida, hereby approves the application by MSW Intracoastal Mall, LLC for a Class I permit and request for a variance from Section 24-48.24 of the Code of Miami-Dade County, Florida, and authorizes non-water-dependent fixed structures, a deck and canopy over tidal waters associated with an upland restaurant at 3501 Sunny Isles Blvd., North Miami Beach, Miami-Dade County, Florida, subject to the conditions set forth in the memorandum from the Director of the Miami-Dade County Department of Environmental Resources Management, a copy of which is attached hereto and made a part hereof. The issuance of this approval does not relieve the applicant from obtaining all applicable Federal, State, and local permits.

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The foregoing resolution was offered by Commissioner
who moved its adoption. The motion was seconded by Commissioner
and upon being put to a vote, the vote was as follows:

Dennis C. Moss, Chairman	
Jose "Pepe" Diaz, Vice-Chairman	
Bruno A. Barreiro	Audrey M. Edmonson
Carlos A. Gimenez	Sally A. Heyman
Barbara J. Jordan	Joe A. Martinez
Dorin D. Rolle	Natacha Seijas
Katy Sorenson	Rebeca Sosa
Sen. Javier D. Souto	

The Chairperson thereupon declared the resolution duly passed and adopted this 18th day of February, 2010. This resolution shall become effective ten (10) days after the date of its adoption unless vetoed by the Mayor, and if vetoed, shall become effective only upon an override by this Board.

MIAMI-DADE COUNTY, FLORIDA
BY ITS BOARD OF
COUNTY COMMISSIONERS

HARVEY RUVIN, CLERK

By: _____
Deputy Clerk

Approved by County Attorney as
to form and legal sufficiency. *PS*

Peter S. Tell

Attachment A
Class I Permit Application



Class I Permit Application

FOR DEPARTMENTAL USE ONLY	
Field: <u> </u>	Application Number: <u> </u>
	Application Fee: <u> </u>

Application must be filled out in its entirety. Please indicate N/A for non-applicable fields.

1. Applicant Information: Name: <u>MSW Intracoastal Mall, LLC</u> Address: <u>3200 North Military Trail</u> <u>Boca Raton, Florida</u> Zip Code: <u>33431</u> Phone #: <u>561-989-7220</u> Fax: <u>561-994-2269</u> Email: <u>DonStiller@woolbright.net</u>	2. Applicant's Authorized Permit Agent: <small>Agent is allowed to process the application, furnish measurement information resulting to the application and bind the applicant to all requirements of the application.</small> Name: <u>RS Environmental Consulting, Inc.</u> Address: <u>12265 SW 129th Court</u> <u>Miami, FL</u> Zip Code: <u>33186</u> Phone #: <u>305-383-3404</u> Fax #: <u>305-383-3270</u> Email: <u>Rainers@rs-env.com</u>
---	---

3. Location where proposed activity exists or will occur (latitude and longitude are only necessary for properties without address or folio #):

Folio #(s): 07-2210-002-2640 Latitude: 25 55' 51.2" Longitude: -80 07' 51.8"

Street Address: 3501 Sunny Isles Boulevard Section: 10 Township: 52S Range: 42E

In City or Town: North Miami Beach Near City or Town:

Name of waterway at location of the activity: Intracoastal Waterway

4. Describe the proposed activity (check all that apply):

<input type="checkbox"/> Seawall	<input type="checkbox"/> Dock(s)	<input type="checkbox"/> Boatlift	<input type="checkbox"/> Dredging	<input type="checkbox"/> Mangrove Trimming
<input type="checkbox"/> New/Replacement Seawall	<input type="checkbox"/> Pier(s)	<input type="checkbox"/> Mooring Piles	<input type="checkbox"/> Maintenance	<input type="checkbox"/> Mangrove Removal
<input type="checkbox"/> Seawall Cap	<input type="checkbox"/> Viewing Platform	<input type="checkbox"/> Fender Piles	<input type="checkbox"/> New	
<input type="checkbox"/> Batter Piles		<input type="checkbox"/> Dverts	<input type="checkbox"/> Filling	
<input type="checkbox"/> King Piles				
<input type="checkbox"/> Fender/Tie Wall				
<input type="checkbox"/> Riprap				

Other: Class I Permit and to request a variance from section 24-48 24 of the Code of Miami-Dade County, Florida, to authorize non-water dependent, fixed structures, a deck and canopy over tidal waters associated with an island restaurant.

As you seeking an after-the-fact approval (ATF)? Yes No If "Yes", describe the ATF work: Deck, deck and canopy

5. Proposed Use (check all that apply): <input type="checkbox"/> Single Family <input type="checkbox"/> Multi-Family <input type="checkbox"/> Private <input type="checkbox"/> Public <input checked="" type="checkbox"/> Commercial <input type="checkbox"/> Industrial <input type="checkbox"/> Utility	6. If the proposed work relates to the mooring of vessels provide the following information (please also indicate if the applicant does not have a vessel): Proposed Vessel Type (s): <u> </u> Vessel Make/Model (if known): <u> </u> Draft (s)(range in inches): <u> </u> Length (s)(range in feet): <u> </u> Total Number of Slips: <u> </u>
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7. List all permits or certifications that have been applied for or obtained for the above referenced work:

Issuing Agency	Type of Approval	Identification Number	Application Date	Approval Date
FDEP	Permit	13-027454-001		9/30/08
USACE	Waterway Permit	SAS-2007-3777		4/11/03

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B. Contractor Information (If known):

Name: Miami Awning Co. License # (County/State): 000012781
Address: 3905 NW 31st Avenue, Miami, Florida Zip Code: 33142
Phone #: (305) 576-2029 Fax #: (305) 576-0514 E-mail: _____

9. IMPORTANT NOTICE TO APPLICANTS: The written consent of the property owner is required for all applications to be considered complete. Your application **WILL NOT BE PROCESSED** unless the Applicant and Owner Consent portion of the application is completed below. You have the obligation to apprise the Department of any changes in information provided in this application.

Application is hereby made for a Miami-Dade County Class I permit to authorize the activities described herein. I agree to or affirm the following:

- I possess the authority to authorize the proposed activities at the subject property, and
- I am familiar with the information, data and plans contained in this application, and
- To the best of my knowledge and belief, the information, data and plans submitted are true, complete and accurate, and
- I will provide any additional information, evidence or data necessary to provide reasonable assurance that the proposed project will comply with the applicable State and County water quality standards both during construction and after the project is completed, and
- I am authorizing the permit agent listed in Section 2 of this application to process the application, furnish supplemental information relating to this application and bind the applicant to all requirements of this application, and
- I agree to provide access and allow entry to the project site to inspectors and authorized representatives of Miami-Dade County for the purpose of making the preliminary analysis of the site and to monitor permitted activities and adherence to all permit conditions.

A. IF APPLICANT IS AN INDIVIDUAL

Signature of Applicant _____ Print Applicant's Name _____ Date _____

B. IF APPLICANT IS OTHER THAN AN INDIVIDUAL OR NATURAL PERSON
(Examples: Corporation, Partnership, Trust, LLC, LLP, etc.)

MSW Hydrocoastal Mall LLC FL
Print Name of Applicant (Enter the complete name as registered) Type (Corp, LLC, LLP, etc.) State of
Registration/Incorporation

Under the penalty of perjury, I certify that I have the authority to sign this application on behalf of the Applicant, to bind the Applicant, and if so required to authorize the issuance of a bond on behalf of the Applicant. (If asked, you must provide proof of such authority to the Department). *******Please Note: If additional signatures are required, mentioned in your governing documents, operating agreements, or other applicable agreements or laws, you must attach additional signature pages.*****

 Jorge Morell Manager 1-11-10
Signature of Authorized Representative Print Authorized Representative's Name Title Date

C. IF APPLICANT IS A JOINT VENTURE Each party must sign below (if more than two members, list on attached page)

Print Name of Applicant (Enter the complete name as registered) Type (Corp, LLC, LLP, etc.) State of
Registration/Incorporation

Print Name of Applicant (Enter the complete name as registered) Type (Corp, LLC, LLP, etc.) State of
Registration/Incorporation

Under the penalty of perjury, I certify that I have the authority to sign this application on behalf of the Applicant, to bind the Applicant, and if so required to authorize the issuance of a bond on behalf of the Applicant. (If asked, you must provide proof of such authority to the Department). *******Please Note: If additional signatures are required, mentioned in your governing documents, operating agreements, or other applicable agreements or laws, you must attach additional signature pages.*****

Signature of Authorized Representative _____ Print Authorized Representative's Name _____ Title _____ Date _____

Signature of Authorized Representative _____ Print Authorized Representative's Name _____ Title _____ Date _____

10. WRITTEN CONSENT OF THE PROPERTY OWNER OF THE AREA OF THE PROPOSED WORK

I/We are the fee simple owner(s) of the real property located at 3501 Sunny Isles Boulevard Miami-Dade County, Florida, otherwise identified in the public records of Miami-Dade County as Folio No. 07-2210-002 7640

I am aware and familiar with the contents of this application for a Miami-Dade County Class I Permit to perform the work on or adjacent to the subject property, as described in Section 4 of this application. I possess the riparian rights to the area of the proposed work (if applicable) and hereby consent to the work identified in this Class I Permit application.

A. IF THE OWNER(S) IS AN INDIVIDUAL

Signature of Owner _____ Print Owner's Name _____ Date _____

Signature of Owner _____ Print Owner's Name _____ Date _____

B. IF THE OWNER IS OTHER THAN AN INDIVIDUAL OR NATURAL PERSON

(Examples: Corporation, Partnership, Joint Venture, Trust, LLC, LLP, etc.)

MSW Intracoastal Mall LLC FL
 Print Name of Owner (Enter the complete name as registered) Type (Corp, LLC, LLP, etc.) State of Registration/Incorporation

3200 North Military Trail, 4th Floor Boca Raton, Florida 33431 United States of America
 Address of Owner

Under the penalty of perjury, I certify that I have the authority to sign this application on behalf of the Owner, to bind the Owner, and if so requested to act as the issuer of a bond on behalf of the Owner. (If asked, you must provide proof of such authority to the Department. ~~***Please Note: If additional signatures are required, you must to your corporate documents, operating agreements, or other applicable agreements or laws, you must attach additional signature pages.***~~)

Jorge Morell Manager 1-11-10
 Signature of Authorized Representative Print Authorized Representative's Name Title Date

Signature of Authorized Representative Print Authorized Representative's Name Title Date

Please Review Above

Appropriate signature(s) must be included in:

Box 9: either A, B or C

AND

Box 10: either A or B

Attachment B

**Permit Applicant/Authorized Agent Statement,
Engineer Certification Letter and Project Sketches**

RS ENVIRONMENTAL CONSULTING, INC.

Permit Applicant/ Authorized Agent Statement

January 26, 2010

Miami-Dade County DERM
Class I Permitting Program
701 N.W. 1st Court
Miami, Florida 33136

RECEIVED
FEB 01 2010

DERM
Environmental Resources Regulation Division

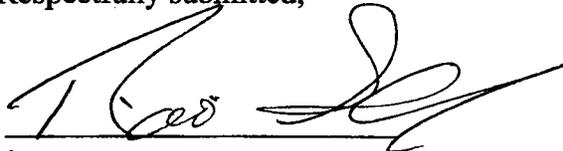
RE: Class I Permit and to Request a Variance from Section 24-48.24 of the Code of Miami-Dade County, Florida, to Authorize Non-Water-Dependent Fixed Structures, a Deck and Canopy Over Tidal Waters Associated with an Upland Restaurant.

By the attached Class I permit application with supporting documents, I, Mr. Rainer W. Schael, am the permit applicant/ applicant's authorized agent and hereby request permission to perform the following: Class I Permit and to Request a Variance from Section 24-48.24 of the Code of Miami-Dade County, Florida, to Authorize Non-Water-Dependent Fixed Structures, a Deck and Canopy Over Tidal Waters Associated with an Upland Restaurant in Section 10, Township 52S, Range 42E. I understand that a Miami-Dade County Class I Standard Form Permit is required to perform this work.

If approval is granted for the proposed work by the Board of County Commissioners, complete and detailed plans and calculations of the proposed work shall be prepared by an engineer registered/licensed in the State of Florida in accordance with the minimum requirements of Chapter 24 of the Code of Miami-Dade County, Florida. Said plans and calculations shall be subject to the review and approval of the Department of Environmental Resources Management. The permit applicant will secure the services of an engineer registered/licensed in the State of Florida to conduct inspections throughout the construction period, and said engineer shall prepare all required drawings of record.

In the event that the proposed work which is the subject of this Class I Permit application involves the cutting or trimming of a mangrove tree(s), a detailed plan of the proposed cutting or trimming shall be prepared by a licensed landscape architect and submitted to the Department for review and approval, and the permit applicant will secure the services of a licensed landscape architect to supervise the trimming or cutting.

Respectfully submitted,



Mr. Rainer W. Schael, President, RS Environmental Consulting, Inc.
Authorized Agent

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THOMAS CHECCA, P.E.

Environmental Consultant

11568 N.W. 73rd Manor

Parkland, FL 33076

January 27, 2010

Miami-Dade County DERM
Class I Permitting Program
701 NW 1st Court, 6th Floor
Miami, Florida 33136

RE: Class I Permit and to Request a Variance from Section 24-48.24 of the Code of Miami-Dade County, Florida, to Authorize Non-Water-Dependent Fixed Structures, a Deck and Canopy Over Tidal Waters Associated with an Upland Restaurant.

Ladies and Gentlemen:

This letter will certify that I am an engineer registered/licensed in the State of Florida, qualified by education and experience in the area of construction, and that to the best of my knowledge and belief, the proposed work does not violate any laws of the State of Florida or any provision of the Code of Miami Dade County which may be applicable, that diligence and recognized standard practices of the engineering profession have been exercised in the engineer's design process for the proposed work, and in my opinion based upon my knowledge and belief, the following will not occur:

- a. Harmful obstruction or undesirable alteration of the natural flow of the water within the area of the proposed work.*
- b. Harmful or increased erosion, shoaling of channels or stagnant areas of water. (Not applicable to class IV permits)*
- c. Material injury to adjacent property.*
- d. Adverse environmental impacts from changes in water quality or quantity. (Applicable to class IV permits only)*

Further, I have been retained by the applicant to provide inspections throughout the construction period to prepare a set of reproducible record prints of drawings showing changes made during the construction process based upon the marked-up prints, drawings, and other data furnished by the contractor to me.

Sincerely,

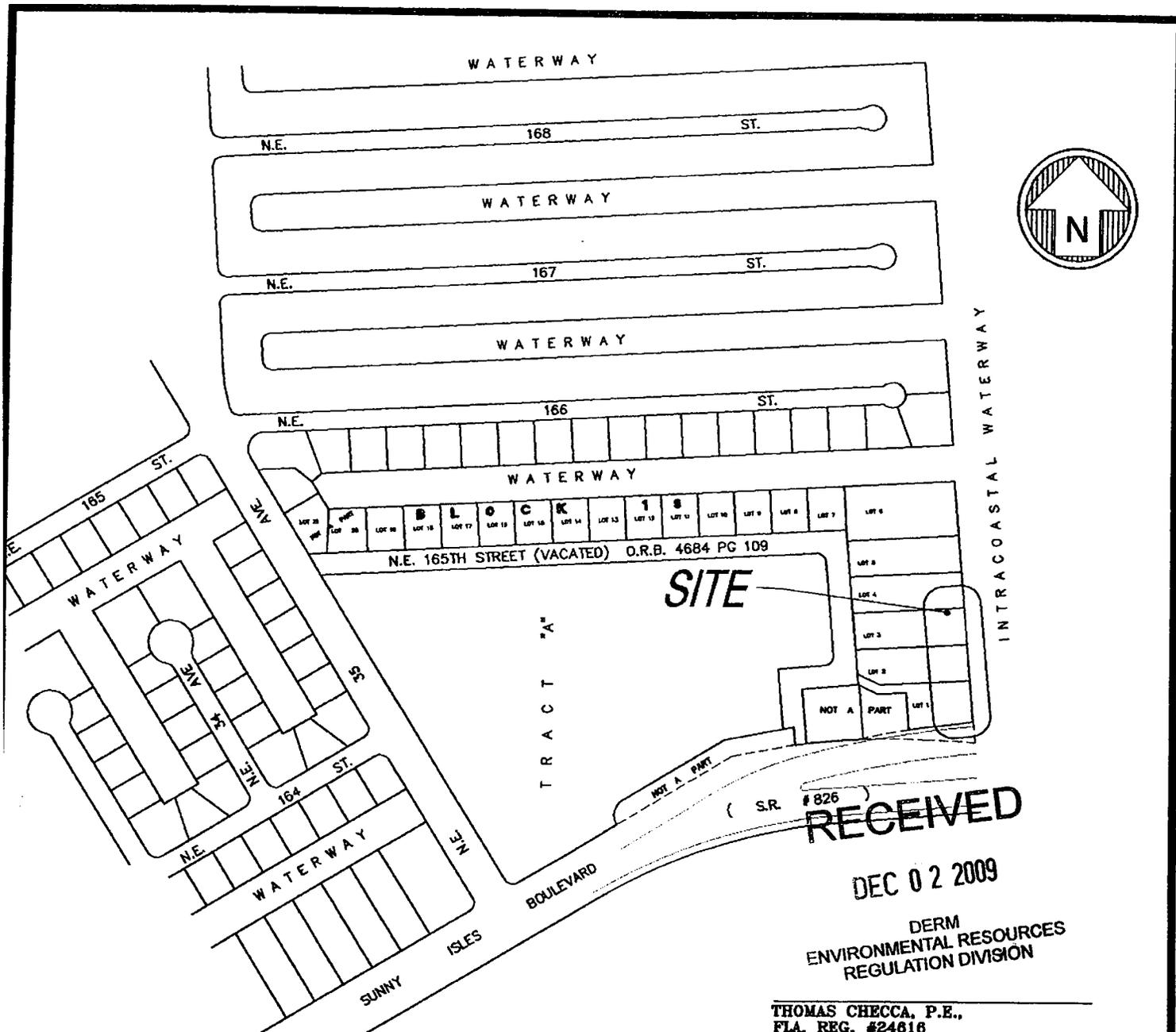


THOMAS CHECCA, P. E.
Fla. P. E. Registration No. 24616

C. Don Stiller

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LOCATION SKETCH

NOT TO SCALE

THIS SITE LIES IN SECTIONS 10, 11, 14 AND 15, TOWNSHIP 52
 SOUTH, RANGE 42 EAST, CITY OF NORTH MIAMI BEACH,
 MIAMI-DADE COUNTY, FLORIDA.

DERM
 ENVIRONMENTAL RESOURCES
 REGULATION DIVISION

THOMAS CHECCA, P.E.,
 FLA. REG. #24818

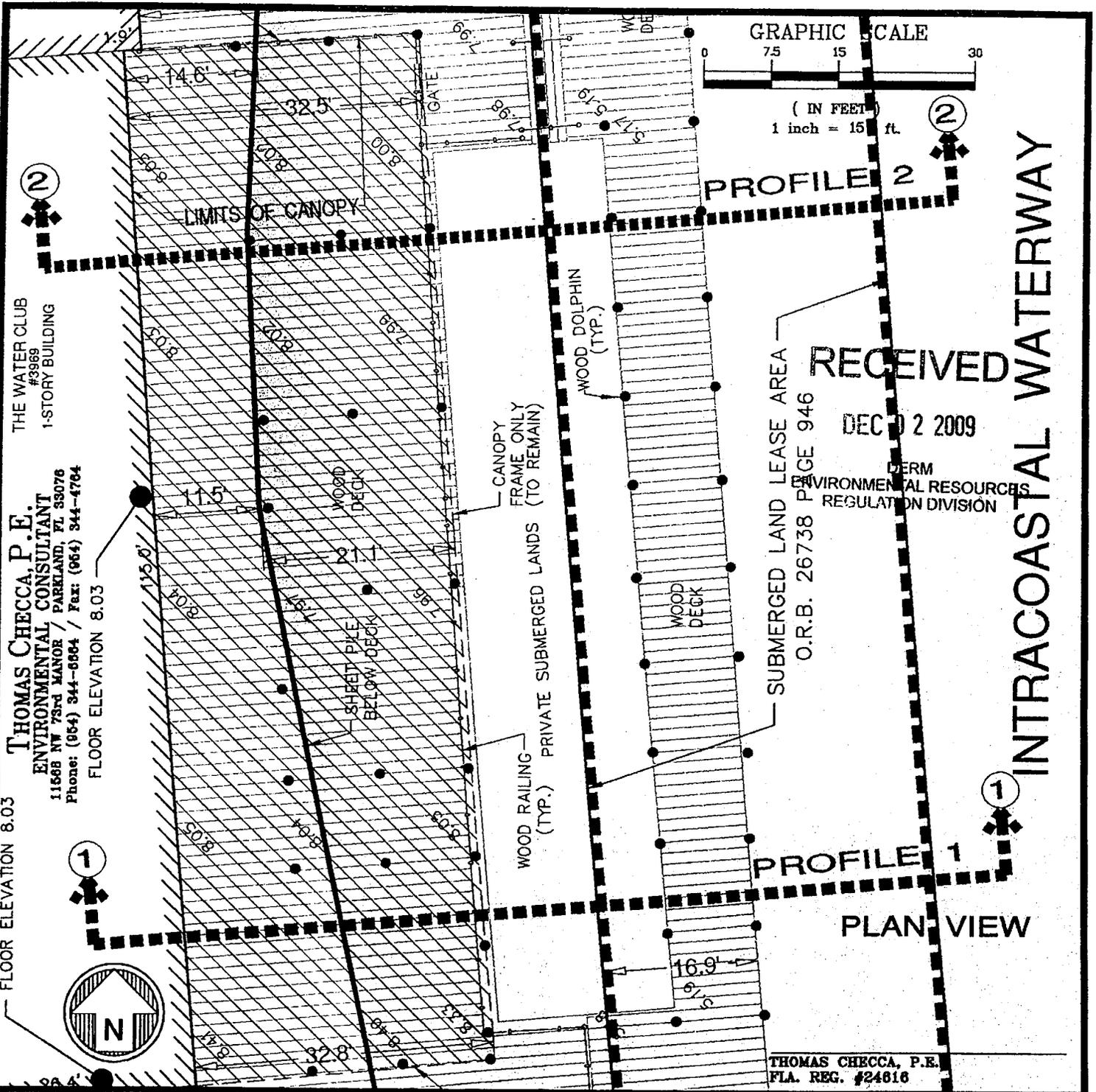
THOMAS CHECCA, P.E.
 ENVIRONMENTAL CONSULTANT
 11568 NW 73rd MANOR / PARKLAND, FL 33076
 Phone: (954) 344-8664 / Fax: (954) 344-4784

Drawn By	DANJR
Cad. No.	090870
Ref. Dwg.	297-165-2
Plotted:	11/16/09 3:44p

SPECIAL PURPOSE SURVEY

FORTIN, LEAVY, SKILES, INC.
 CONSULTING ENGINEERS, SURVEYORS & MAPPERS
 FLORIDA CERTIFICATE OF AUTHORIZATION NUMBER: 00003653
 180 Northeast 168th Street / North Miami Beach, Florida 33162
 Phone 305-653-4493 / Fax 305-651-7152 / Email fls@flssurvey.com

Date	11/12/09
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Job. No.	090870
Dwg. No.	1009-080
Sheet	1 of 5



THE WATER CLUB
#3969
1-STORY BUILDING

THOMAS CHECCA, P.E.
ENVIRONMENTAL CONSULTANT
11668 NW 73rd MANOR / PARKLAND, FL 33076
Phone: (954) 344-8864 / Fax: (964) 344-4764

FLOOR ELEVATION 8.03

THOMAS CHECCA, P.E.
FLA. REG. #24616

Drawn By	DANJR
Cad. No.	090870
Ref. Dwg.	297-165-2
Plotted:	11/16/09 3:44p

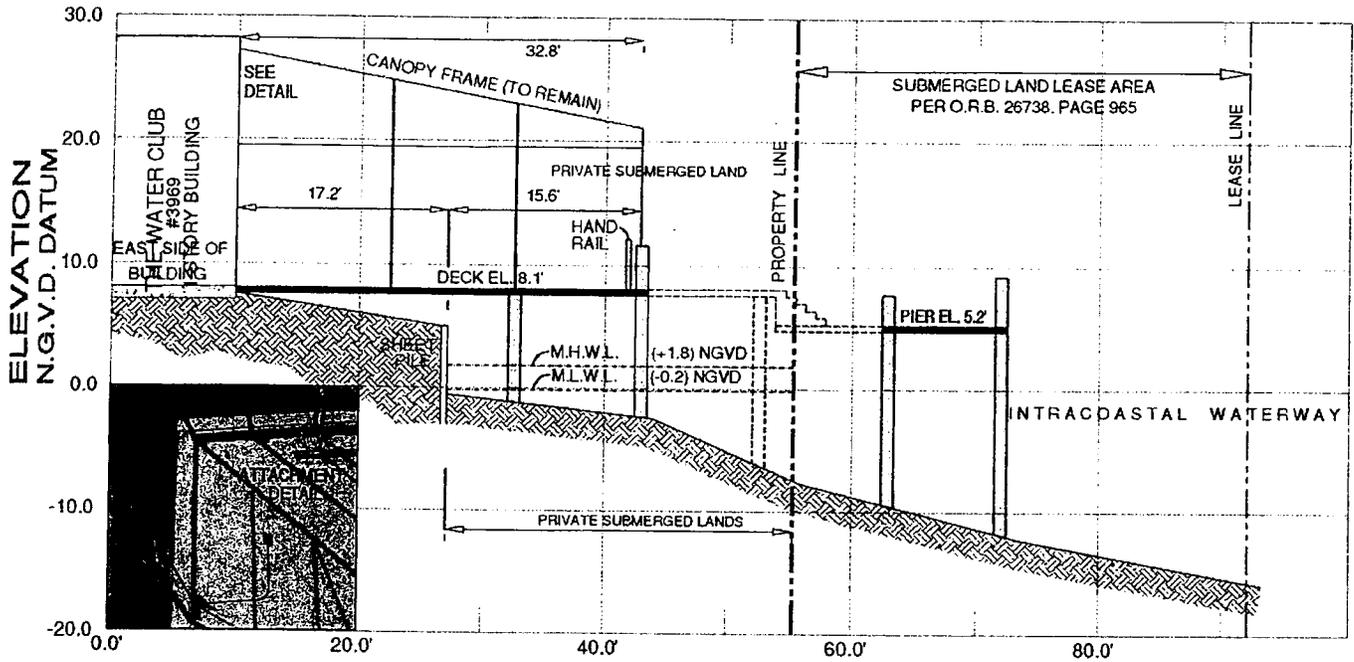
SPECIAL PURPOSE SURVEY

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CONSULTING ENGINEERS, SURVEYORS & MAPPERS
FLORIDA CERTIFICATE OF AUTHORIZATION NUMBER: 00003653
180 Northeast 168th Street / North Miami Beach, Florida 33162
Phono 305-653-4493 / Fax 305-651-7152 / Email fls@flssurvey.com

Date	11/12/09
Scale	AS SHOWN
Job No.	090870
Dwg. No.	1009-080
Sheet	3 of 5

17

CROSS SECTION PROFILE 1



SURVEYOR'S NOTES:

- This site lies in Sections 10, 11, 14 and 15, Township 52 South, Range 42 East, City of North Miami Beach, Miami-Dade County, Florida.
- This is not a "Boundary Survey" but only a graphic depiction of the deck and mean high water line as shown hereon.
- Elevations shown hereon are relative to the National Geodetic Vertical Datum of 1929, based on Dade County Bench Mark No. N-555, Elevation +4.82. Located prior to September 2008, at Sunny Isles Boulevard and NE 35th Avenue.
- Underground improvements and/or underground encroachments not shown unless otherwise indicated.
- Dimensions shown hereon are based on Fortin, Leavy, Skiles, sketch #297-165-2.
- Improvements shown beyond the (scope/limits) of this Special Purpose Survey may not be current or located.
- The intent of this submittal is to place a canvas cover on/over the existing canopy frame, and used to cover tables to the Easterly edge of the existing canopy frame.

SURVEYOR'S CERTIFICATION:

I hereby certify that this "Special Purpose Survey" was made under my responsible charge on November 12, 2009, and meets the Minimum Technical Standards as set forth by the Florida Board of Professional Surveyors and Mappers in Chapter 61G17-6, Florida Administrative Code, pursuant to Section 472.027, Florida Statutes.
 "Not valid without the signature and the original raised Seal of a Florida Licensed Surveyor and Mapper"
 FORTIN, LEAVY, SKILES, INC., LB3653

RECEIVED

By: _____
 Daniel C. Fortin, For The Firm
 Surveyor and Mapper, LS2853
 State of Florida.

DEC 02 2009

DERM
THOMAS CHECCA, P.E. ENVIRONMENTAL RESOURCES
 ENVIRONMENTAL CONSULTANT REGULATION DIVISION
 11568 NW 73rd MANOR / PARKLAND, FL 33076
 Phone: (954) 344-8884 / Fax: (954) 344-4764
THOMAS CHECCA, P.E.,
 FLA. REG. #24616

Drawn By	DANJR
Cad. No.	090870
Ref. Dwg.	297-165-2
Plotted:	11/16/09 3:44p

SPECIAL PURPOSE SURVEY

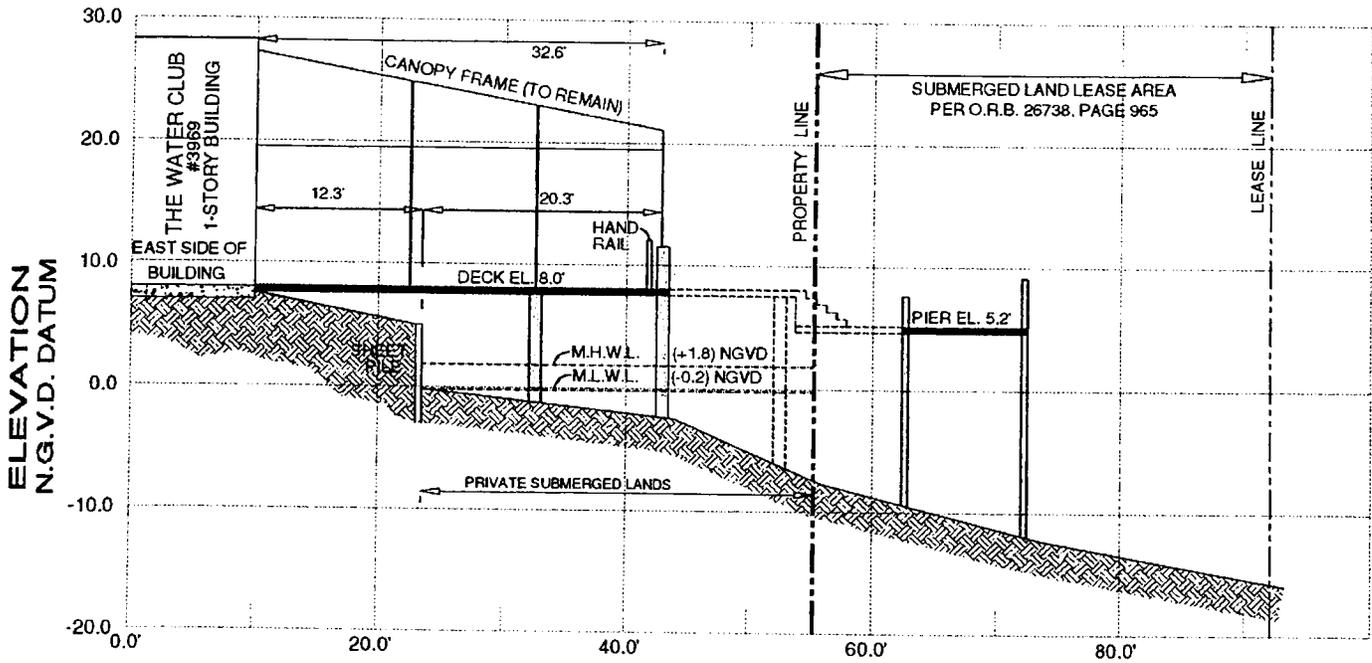
FORTIN, LEAVY, SKILES, INC.

CONSULTING ENGINEERS, SURVEYORS & MAPPERS

FLORIDA CERTIFICATE OF AUTHORIZATION NUMBER: 00003653
 180 Northeast 168th Street / North Miami Beach, Florida 33162
 Phone 305-653-4493 / Fax 305-651-7152 / Email fls@flssurvey.com

Date	11/12/09
Scale	AS SHOWN
Job. No.	090870
Dwg. No.	1009-080
Sheet	4 of 5

CROSS SECTION PROFILE 2



RECEIVED

DEC 02 2009

DERM
ENVIRONMENTAL RESOURCES
REGULATION DIVISION

THOMAS CHECCA, P.E.
ENVIRONMENTAL CONSULTANT
11588 NW 73rd MANOR / PARKLAND, FL 33076
Phone: (954) 344-6864 / Fax: (954) 344-4764

THOMAS CHECCA, P.E.,
FLA. REG. #24616

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SPECIAL PURPOSE SURVEY

FORTIN, LEAVY, SKILES, INC.
CONSULTING ENGINEERS, SURVEYORS & MAPPERS
FLORIDA CERTIFICATE OF AUTHORIZATION NUMBER: 00003653
180 Northeast 168th Street / North Miami Beach, Florida 33162
Phone 305-653-4493 / Fax 305-651-7152 / Email fls@flssurvey.com

Date	11/12/09
Scale	AS SHOWN
Job. No.	090870
Dwg. No.	1009-080
Sheet	5 of 5

Attachment C
Zoning Memorandum

Memorandum



Date: January 26, 2010

To: Lisa Spadafina, Manager
Coastal Resources Section
Environmental Resources Management 

From: Elaine Pietryak, Biologist II
Coastal Resources Section
Environmental Resources Management 

Subject: Class I Permit Application by MSW Intracoastal Mall, LLC and to Request a Variance from Section 24-48.24 of the Code of Miami-Dade County, Florida, to Authorize Non-Water-Dependent Fixed Structures, a Deck and Canopy Over Tidal Waters Associated with an Upland Restaurant

Pursuant to Section 24-48.2(II)(A)(7), of the Code of Miami-Dade County, Florida, a substantiating letter shall be submitted by the applicant stating that the proposed project does not violate any zoning laws. Said letter will be submitted after approval by the County Commission and prior to issuance of the Class I permit.

Attachment D

**Names and Addresses of Owners of All Riparian Property
within Three Hundred (300) Feet of the Proposed Work**

RS Environmental Consulting, Inc.
PO Box 161158
Miami, FL 33116

FDOT - Stephanie C. Kopelousos
Secretary of Transportation
605 Suwannee Street
Tallahassee, Florida 32399-0450

UNRECORDED

Attachment E
DERM Project Report

**PROJECT REPORT
CLASS I PERMIT APPLICATION NO. 2009-CLI-PER-00280**

APPLICATION BY MSW INTRACOASTAL MALL, LLC FOR A CLASS I PERMIT AND TO REQUEST A VARIANCE FROM SECTION 24-48.24 OF THE CODE OF MIAMI-DADE COUNTY, FLORIDA, TO AUTHORIZE NON-WATER-DEPENDENT FIXED STRUCTURES, A DECK AND CANOPY OVER TIDAL WATERS ASSOCIATED WITH AN UPLAND RESTAURANT

DATE: January 26, 2010

Staff's recommendation of approval for the above-referenced permit application is based on the applicable evaluation factors under Section 24-48.3 of the Code of Miami-Dade County, Florida. The following is a summary of the proposed project with respect to each applicable evaluation factor:

1. **Potential Adverse Environmental Impact** – The potential for any adverse environmental impacts from the installation of the canopy and the authorization for the non-water-dependent use of the existing deck is minimal. The structures are not reasonably expected to adversely affect surface water quality, or impact seagrasses. Additionally, the proposed canopy installation will be performed from the uplands and will not require any in-water construction activities.
2. **Potential Cumulative Adverse Environmental Impact** – The proposed project is not reasonably expected to have cumulative adverse environmental impacts.
3. **Hydrology** - The proposed project, as designed, is not reasonably expected to adversely affect surface water drainage or retention of stormwater.
4. **Water Quality** – The proposed project is not reasonably expected to cause surface or groundwater quality to be adversely affected.
5. **Wellfields** – Not applicable.
6. **Water Supply** – Not applicable.
7. **Aquifer Recharge** – Not applicable.
8. **Aesthetics** – The proposed project is designed to be aesthetically compatible with the surrounding area and is not reasonably expected to have any negative aesthetic impacts. The proposed work will be performed from the uplands and will not require any in-water construction activities.
9. **Navigation** – The proposed project is not reasonably expected to adversely affect navigation.
10. **Public Health** - The proposed project is not reasonably expected to adversely affect public health.
11. **Historic Values** - The proposed project is not reasonably expected to adversely affect historic values.
12. **Archaeological Values** - The proposed project is not reasonably expected to adversely affect archaeological values.
13. **Air Quality** – The proposed project is not reasonably expected to adversely affect air quality.
14. **Marine and Wildlife Habitats** – The proposed project is not reasonably expected to adversely affect marine and wildlife habitats.
15. **Wetland Soils Suitable for Habitat** – The proposed project does not involve any work in wetland soils.

16. **Floral Values** – The proposed project is not reasonably expected to adversely affect floral values.
17. **Fauna Values** – The proposed project is not reasonably expected to adversely affect marine fauna.
18. **Rare, Threatened and Endangered Species** – The proposed work is not reasonably expected to adversely affect marine and wildlife habitats. The proposed project is located within an area designated as essential manatee habitat for the West Indian Manatee by the Miami-Dade County Manatee Protection Plan (MPP). However, the proposed canopy installation will be performed from the uplands and will not require any in-water construction activities. Additionally, the Class I permit will have conditions to protect rare, threatened, and endangered species.
19. **Natural Flood Damage Protection** - The proposed project is not reasonably expected to adversely affect surface water drainage or retention of stormwater.
20. **Wetland Values** – The proposed project does not involve dredging or filling of wetlands.
21. **Land Use Classification** – Pursuant to Section 24-48.2(II)(A)(7), of the Code of Miami-Dade County, Florida, a substantiating letter shall be submitted stating that the proposed project does not violate any zoning laws. Said letter will be submitted after the approval by the Board of County Commissioners and prior to the issuance of a Class I permit.
22. **Recreation** - The proposed project does not conflict with the recreation element of the Miami-Dade County Comprehensive Development Master Plan
23. **Other Environmental Values Affecting the Public Interest** – The proposed project is not reasonably expected to adversely affect environmental values affecting the public interest. The proposed work will occur on submerged lands owned by the applicant
24. **Conformance with Standard Construction Procedures and Practices and Design and Performance Standards** – The proposed project complies with the standard construction procedures and practices and design and performance standards of the applicable portions of the following:
 - a) Miami-Dade County Public Works Manual
 - b) Chapter 33B of the Code of Miami-Dade County
25. **Comprehensive Environmental Impact Statement (CEIS)** - In the opinion of the Director, the proposed project is not reasonably expected to result in significant adverse environmental impacts or cumulative adverse environmental impacts. Therefore, a CEIS was not required by DERM to evaluate the project.
26. **Conformance with All Applicable Federal, State and Local Laws and Regulations**
The proposed project is in conformance with the following applicable State, Federal and local laws and regulations:
 - a) Florida Department of Environmental Protection
 - b) United States Clean Water Act (Army Corps of Engineers Consent to Easement is required)

27. **Conformance with the Miami-Dade County Comprehensive Development Master Plan (CDMP)** - In the opinion of DERM, elements of the proposed project are not in full conformance with the CDMP. However, the applicant is requesting a variance from the Section of Miami-Dade County Code relating to these non-water dependent structures as they pertain to the proposed project. The following is a summary of the proposed project as it relates to the CDMP:

LAND USE ELEMENT I:

Objective 2/Policy 2A - Level of Service. The proposed project does not involve new or significant expansion of existing urban land uses.

Objective 3/Policies 3A, 3B, 3C - Protection of natural resources and systems. – The proposed project is consistent with the Conservation and Coastal Management Elements of the CDMP. The project is compatible with surrounding land uses in Biscayne Bay and does not involve development in the Big Cypress area of Critical State concern or the East Everglades.

TRANSPORTATION ELEMENT II

Aviation Subelement/Objective 9 - Aviation System Expansion - There is no aviation element to the proposed project.

Port of Miami River Subelement/Objective 3 - Minimization of impacts to estuarine water quality and marine resources. The proposed project is not located within the Miami River.

CONSERVATION, AQUIFER RECHARGES AND DRAINAGE ELEMENT IV:

Objective 3/Policies 3A, 3B, 3D - Wellfield protection area protection. - The proposed project is not located within a wellfield protection area.

Objective 3/Policy 3E - Limestone mining within the area bounded by the Florida Turnpike, the Miami-Dade/Broward Levee, N.W. 12 Street and Okeechobee Road. - The proposed project is not located within this area.

Objective 4/Policies 4A, 4B, 4C - Water storage, aquifer recharge potential and maintenance of natural surface water drainage. - The proposed project will not adversely affect water storage, aquifer recharge potential or natural surface water drainage. The proposed project does not involve positive drainage of wetland area and will not affect water storage or aquifer recharge potential.

Objective 5/Policies 5A, 5B, 5F - Flood protection and cut and fill criteria. – The proposed project does not compromise flood protection, involve filling for development purposes, and is not related to cut and fill activities.

Objective 6/Policy 6A - Areas of highest suitability for mineral extraction. - The proposed project is not located in an area proposed or suitable for mineral extraction.

Objective 6/Policy 6B - Guidelines for rock quarries for the re-establishment of native flora and fauna. - The proposed project does not involve the dredging of a rock quarry.

Objective 6/Policy 6D - Suitable fill material for the support of development. – The proposed project does not involve filling for the purposes of development.

Objective 7/Policy 7A - No net loss of high quality, relatively unstressed wetlands. – The proposed project will not result in a net loss of any such wetlands.

Objective 9/Policies 9A, 9B, 9C - Protection of habitat critical to Federal or State-designated threatened or endangered species. – The proposed project is located within an area designated as essential manatee habitat for the West Indian Manatee by the MPP. However, the proposed canopy installation will be performed from the uplands and will not require any in-water construction activities. Additionally, the Class I permit will have conditions to protect rare, threatened, and endangered species.

COASTAL MANAGEMENT ELEMENT VII:

Objective 1/Policy 1A - Tidally connected mangroves in mangrove protection areas – The project is not located within a designated “Mangrove Protection Area.”

Objective 1/ Policy 1B - Natural surface flow into and through coastal wetlands. – The project will not affect natural surface flow into and through coastal wetlands.

Objective 1/ Policy 1C - Elevated boardwalk access through mangroves. – The project does not involve access through mangroves.

Objective 1/Policy 1D - Protection and maintenance of mangrove forests and related natural vegetational communities. - The proposed project does not involve work in mangrove forests, coastal hammock, or other natural vegetational communities.

Objective 1/Policy 1E - Mitigation for the degradation and destruction of coastal wetlands. Monitoring and maintenance of mitigation areas. – The proposed project does not involve the degradation and destruction of coastal wetlands and therefore does not involve monitoring of mitigation for impacts to coastal wetlands.

Objective 1/Policy 1G - Prohibition on dredging or filling of grass/algal flats, hard bottom or other viable benthic communities, except as provided for in Chapter 24 of the Code of Miami-Dade County, Florida. – The project does not involve the dredging or filling of grass/algal flats, hard bottom or other viable benthic communities.

Objective 2/Policies 2A, 2B - Beach restoration and renourishment objectives. - The proposed project does not involve beach restoration or renourishment.

Objective 3/Policies 3E, 3F - Location of new cut and spoil areas for proper stabilization and minimization of damages. - The proposed project does not involve the development or identification of new cut or spoil areas.

Objective 5/Policy 5B - Existing and new areas for water-dependent uses. - The proposed project will not affect water-dependent use at this site.

Objective 5/Policy 5D - Consistency with Chapter 33D, Miami-Dade County Code (shoreline access, environmental compatibility of shoreline development) – The Shoreline Development Review Committee has evaluated the proposed project and determined that the thresholds for review under the Shoreline Ordinance do not apply and the proposed project is not subject to shoreline development review.

Objective 5/Policy 5F - The siting of water dependent facilities. - The proposed project does not involve the creation of any new water dependent facilities.

28. **Conformance with Chapter 33B, Code of Miami-Dade County** (East Everglades Zoning Overlay Ordinance) – The proposed project is not located within the East Everglades Area.
29. **Conformance with Miami-Dade County Ordinance 81-19** (Biscayne Bay Management Plan Sections 33D-1 through 33D-4 of the Code of Miami-Dade County) - The proposed project is not located within Biscayne Bay.
30. **Conformance with the Miami-Dade County Manatee Protection Plan** - The proposed project is located within an area designated as essential manatee habitat for the West Indian Manatee by the MPP. However, the proposed canopy installation will be performed from the uplands and will not require any in-water construction activities. Additionally, the Class I permit will have conditions to protect rare, threatened, and endangered species.
31. **Consistency with Miami-Dade County Criteria for Lake Excavation** – The proposed project does not involve lake excavation.
32. **Municipality Recommendation** – Pursuant to Section 24-48.2(II)(A)(7), Code of Miami-Dade County, Florida, a substantiating letter shall be submitted stating that the proposed project does not violate any zoning laws. Said letter will be submitted after the approval by the Board of County Commissioners and prior to the issuance of the Class I permit.
33. **Coastal Resources Management Line** - A coastal resources management line was not required for the proposed project, pursuant to Section 24-48.2(II)(A)(10)(b) of the Code of Miami-Dade County, Florida.
34. **Maximum Protection of a Wetland's Hydrological and Biological Functions** – The proposed project is not expected to impact wetland hydrological and biological functions.
35. **Class I Permit Applications Proposing to Exceed the Boundaries Described in Section D-5.03(2)(a) of the Miami-Dade County Public Works Manual**
 - i. **Whether the proposed exceedance is the minimum necessary to avoid seagrasses or other valuable environmental resources** – Not applicable.
 - ii. **Whether the proposed exceedance is the minimum necessary to achieve adequate water depth for mooring of a vessel** – Not applicable.
 - iii. **Whether the applicant has provided notarized letters of consent to DERM from adjoining riparian property owners** – Not applicable.
 - iv. **Whether any letters of objection from adjoining riparian property owners were received by DERM** – Not applicable

The proposed project was also evaluated for compliance with the standards contained in Section 24-48.3(2),(3), and (4) of the Code of Miami-Dade County, Florida. The following is a summary of how the standards relate to the proposed project:

24-48.3 (2) Dredging and Filling for Class I Permit - The proposed project does not involve dredging and filling activities.

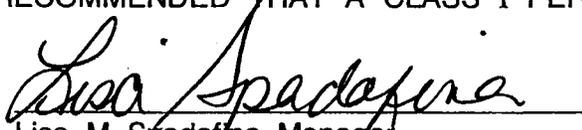
24-48.3 (3) Minimum Water Depth Required for Boat Slips Created by the Construction or Placement of Fixed or Floating Docks and Piers, Piles and Other Structures Requiring a Permit Under Article IV, Division 1 of Chapter 24 of the Code of Miami-Dade County - The proposed project does not involve the creation of a boat slip.

24-48.3 (4) Clean Fill in Wetlands – The proposed project does not involve placing clean fill in wetlands.

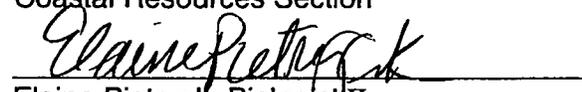
The proposed project was also evaluated based upon the applicable factors set forth in Section 24-48.25 of the Code.

36. **Visual or physical access by the general public to Biscayne Bay and its adjacent tidal waters** – The subject structures provide the general public visual access to the Intracoastal Waterway.
37. **Historical significance** – Not applicable
38. **Need for covered vessel repair facilities** - Not applicable.
39. **Environmental impact or cumulative environmental impact** – The potential for any adverse environmental impacts from the installation of the canopy and the authorization for the non-water-dependent use of the existing deck is minimal. The structures are not reasonably expected to adversely affect surface water quality, or impact seagrasses. Additionally, the proposed canopy installation will be performed from the uplands and will not require any in-water construction activities.
40. **Navigation** – The proposed project is not reasonably expected to adversely affect navigation.
41. **Public safety** – The canopy will provide the patrons with protection from the elements, thereby increasing the public safety.
42. **Aesthetics**- The structures are not expected to create negative aesthetic impacts to the surrounding area. The proposed work will be performed from the uplands and will not require any in-water construction activities. Additionally, the Shoreline Development Review Committee has evaluated the proposed project and determined that the thresholds for review under the Shoreline Ordinance do not apply and the proposed project is not subject to shoreline development review.
43. **Biscayne Bay Management Plan** – The proposed project is not located within Biscayne Bay.
44. **Biscayne Bay Aquatic Preserve Act** - The proposed project is not located within Biscayne Bay.
45. **Rules of the Biscayne Bay Aquatic Preserve** - The proposed project is not located within Biscayne Bay.

BASED ON THE FOREGOING, IT IS RECOMMENDED THAT A CLASS I PERMIT BE APPROVED.



Lisa M. Spadafina, Manager
Coastal Resources Section



Elaine Pietryak, Biologist II
Coastal Resources Section