



## SOUTH FLORIDA WATER MANAGEMENT DISTRICT

May 11, 2020

### Temporary Approval

Catalina at Winkler HOA, Inc  
Attention: Ms. Erica Maynard-Uliasz  
12650 Whitehall Drive  
Fort Myers, FL 33907

Dear Mr. Wood:

Subject: Water Shortage Variance No. 4837

Your application for a variance regarding the Phase III (EXTREME) Water Shortage restrictions imposed by the South Florida Water Management District ("District") has been reviewed. Please be advised that you have met the requirements for the issuance of a 'temporary' variance; this is valid only through June 30, 2020. A variance certificate is enclosed. This should be displayed so that an enforcement officer can see the variance.

On June 11, 2020, the temporary variance will be presented to the District's Governing Board at its regular monthly meeting for final agency action. These meetings are generally held in West Palm Beach. Although staff is recommending approval of your variance request, the Governing Board may concur with, reject, or modify staff recommendation. If you wish to present your position regarding this application to the Governing Board, you may want to attend this meeting. If approved, a new variance certificate will be sent to you with a new expiration date. Please read the certificate carefully since the Governing Board action regarding your request may differ from the staff recommendation.

Please be aware that this variance is necessary because of limitations of existing irrigation system, the variance is approved only for the current restrictions and appropriate changes must be made to the system in order to be in compliance with future water shortage restrictions. No additional variances will be granted for a system that has not been properly modified.

The agenda, location, and time of the Governing Board meetings are published on the District's web page one week before the meeting ([www.sfwmd.gov](http://www.sfwmd.gov)).

If you have any questions regarding this matter, please feel free to contact Thushari Liyanage at (561) 682-2774.

Sincerely,

A blue ink handwritten signature, appearing to read "Drew Bartlett", written over a horizontal line.

Drew Bartlett, Executive Director  
South Florida Water Management District



# SOUTH FLORIDA WATER MANAGEMENT DISTRICT

Variance Control No: 4837

Project Name: WINKLER PRESERVE

Issued To: CATALINA AT WINKLER HOA INC  
12650 WHITEHALL DRIVE  
FORT MYERS, FL 33907

Expiration Date: END OF PHASE III WATER SHORTAGE

Specific Authorization(s): BECAUSE OF IRRIGATION SYSTEM LIMITED CAPABILITIES, THE APPLICANT IS ALLOWED TO IRRIGATE THE PROJECT AS FOLLOWS, FRONT OF THE PROJECT (87 ZONES): WEDNESDAYS FROM 12:01 AM TO 6:00 AM AND 6:00 PM TO 11:59 PM IN FOUR CYCLES WITH 6 MINUTES PER CYCLE PER LAWN. BACK OF THE PROJECT (82 ZONES): SUNDAYS FROM 12:01 AM TO 6:00 AM AND 6:00 PM TO 11:59 PM IN FOUR CYCLES WITH 6 MINUTES PER CYCLE PER LAWN. THIS IS A 50% CUT BACK FROM THE NORMAL SCHEDULE.

THIS VARIANCE WILL ONLY APPLY TO THE CURRENT RESTRICTIONS: THE APPLICANT MUST TAKE ALL STEPS NECESSARY TO COMPLY WITH RESTRICTIONS SUBSEQUENT TO THE END OF THE CURRENT RESTRICTIONS AND PRIOR TO THE NEXT WATER SHORTAGE DECLARATION.

*Approved by:*

A handwritten signature in blue ink, appearing to read "Drew Bartlett".

*Drew Bartlett*  
*Executive Director*  
*SFWMD*

## **NOTICE OF RIGHTS**

As required by Chapter 120, Florida Statutes, the following provides notice of the opportunities which may be available for administrative hearing pursuant to Sections 120.569 and 120.57, Florida Statutes, or judicial review pursuant to Section 120.68, Florida Statutes, when the substantial interests of a party are determined by an agency. Please note that this Notice of Rights is not intended to provide legal advice. Some of the legal proceedings detailed below may not be applicable or appropriate for your situation. You may wish to consult an attorney regarding your legal rights.

### **RIGHT TO REQUEST ADMINISTRATIVE HEARING**

A person whose substantial interests are or may be affected by the South Florida Water Management District's (District) action has the right to request an administrative hearing on that action pursuant to Sections 120.569 and 120.57, Florida Statutes. Persons seeking a hearing on a District decision which affects or may affect their substantial interests shall file a petition for hearing in accordance with the filing instructions set forth herein within 21 days of receipt of written notice of the decision unless one of the following shorter time periods apply: (1) within 14 days of the notice of consolidated intent to grant or deny concurrently reviewed applications for environmental resource permits and use of sovereign submerged lands pursuant to Section 373.427, Florida Statutes; or (2) within 14 days of service of an Administrative Order pursuant to Section 373.119(1), Florida Statutes. "Receipt of written notice of agency decision" means receipt of written notice through mail, electronic mail, posting, or publication that the District has taken or intends to take final agency action. Any person who receives written notice of a District decision and fails to file a written request for hearing within the timeframe described above waives the right to request a hearing on that decision.

If the District takes final agency action that materially differs from the noticed intended agency decision, persons who may be substantially affected shall, unless otherwise provided by law, have an additional point of entry pursuant to Rule 28-106.111, Florida Administrative Code.

Any person to whom an emergency order is directed pursuant to Section 373.119(2), Florida Statutes, shall comply therewith immediately, but on petition to the board shall be afforded a hearing as soon as possible.

A person may file a request for an extension of time for filing a petition. The District may grant the request for good cause. Requests for extension of time must be filed with the District prior to the deadline for filing a petition for hearing. Such requests for extension shall contain a certificate that the moving party has consulted with all other parties concerning the extension and whether the District and any other parties agree to or oppose the extension. A timely request for an extension of time shall toll the running of the time period for filing a petition until the request is acted upon.

### **FILING INSTRUCTIONS**

A petition for administrative hearing must be filed with the Office of the District Clerk. Filings with the Office of the District Clerk may be made by mail, hand-delivery, or e-mail. Filings by facsimile will not be accepted. A petition for administrative hearing or other document is deemed filed upon receipt during normal business hours by the Office of the District Clerk at the District's headquarters in West Palm Beach, Florida. The District's normal business hours are 8:00 a.m. – 5:00 p.m., excluding weekends and District holidays. Any document received by the Office of the District Clerk after 5:00 p.m. shall be deemed filed as of 8:00 a.m. on the next regular business day. Additional filing instructions are as follows:

- Filings by mail must be addressed to the Office of the District Clerk, 3301 Gun Club Road, West Palm Beach, Florida 33406.

- Filings by hand-delivery must be delivered to the Office of the District Clerk. Delivery of a petition to the District's security desk does not constitute filing. It will be necessary to request that the District's security officer contact the Office of the District Clerk. An employee of the District's Clerk's office will receive and process the petition.
- Filings by e-mail must be transmitted to the Office of the District Clerk at [clerk@sfwmd.gov](mailto:clerk@sfwmd.gov). The filing date for a document transmitted by electronic mail shall be the date the Office of the District Clerk receives the complete document.

### **INITIATION OF AN ADMINISTRATIVE HEARING**

Pursuant to Sections 120.54(5)(b)4. and 120.569(2)(c), Florida Statutes, and Rules 28-106.201 and 28-106.301, Florida Administrative Code, initiation of an administrative hearing shall be made by written petition to the District in legible form and on 8 1/2 by 11 inch white paper. All petitions shall contain:

1. Identification of the action being contested, including the permit number, application number, District file number or any other District identification number, if known.
2. The name, address, any email address, any facsimile number, and telephone number of the petitioner, petitioner's attorney or qualified representative, if any.
3. An explanation of how the petitioner's substantial interests will be affected by the agency determination.
4. A statement of when and how the petitioner received notice of the District's decision.
5. A statement of all disputed issues of material fact. If there are none, the petition must so indicate.
6. A concise statement of the ultimate facts alleged, including the specific facts the petitioner contends warrant reversal or modification of the District's proposed action.
7. A statement of the specific rules or statutes the petitioner contends require reversal or modification of the District's proposed action.
8. If disputed issues of material fact exist, the statement must also include an explanation of how the alleged facts relate to the specific rules or statutes.
9. A statement of the relief sought by the petitioner, stating precisely the action the petitioner wishes the District to take with respect to the District's proposed action.

### **MEDIATION**

The procedures for pursuing mediation are set forth in Section 120.573, Florida Statutes, and Rules 28-106.111 and 28-106.401–405, Florida Administrative Code. The District is not proposing mediation for this agency action under Section 120.573, Florida Statutes, at this time.

### **RIGHT TO SEEK JUDICIAL REVIEW**

Pursuant to Section 120.68, Florida Statutes, and in accordance with Florida Rule of Appellate Procedure 9.110, a party who is adversely affected by final District action may seek judicial review of the District's final decision by filing a notice of appeal with the Office of the District Clerk in accordance with the filing instructions set forth herein within 30 days of rendition of the order to be reviewed, and by filing a copy of the notice with the appropriate district court of appeals via the Florida Courts E-Filing Portal.

SOUTH FLORIDA WATER MANAGEMENT DISTRICT

APPLICATION FOR VARIANCE

Pursuant to Rule 40E-21.275, Florida Administrative Code

Additional information believed to be material may be attached and additional sheets may be used if necessary, for any of the responses.

A. Name: Catalina of Winkler Homeowners Association, Inc.  
Address: 12650 Whitehall Drive Fort Myers FL 33907  
Street City State Zip  
Email Address: elm140@aol.com (Erica Ullasz)  
24 hour contact phone #: (239) 989-1143 Erica Ullasz - President HOA  
Location of Property for which relief is being requested if different from above:  
Catalina Isles off Winkler Road Fort Myers FL 33908  
Street City State Zip  
Section/Township/Range (if known): S10,11 T46S R24E  
SFWMD Permit Number: 36-05312-W Project Name: Winkler Preserve

B. Specific rule, order, water shortage phase or restriction from which relief is requested:

Rule 40E-21.275 FAC and please see attached

C. Facts supporting this request (be as specific as possible - include reports by qualified technical experts):

See Attached

D. Description of relief requested:

See Attached

E. Period of time for which variance is sought and the reasons and facts for such:

See Attached

F. Damage or harm which may result from compliance with the Water Shortage Rule or Order:

See Attached

G. If restrictions cannot be met because of extent or cost, describe measures necessary to meet all restrictions, restrictions which can be met, and the date of compliance:

See Attached

H. If this request is for a golf course which is unable to meet the front nine-back nine requirements, submit a map showing the proposed alternative division of the course in half and an explanation of the proposed irrigation scheme.


See Attached

I. For applications for variance from restrictions on irrigation, provide a general description of the irrigation system, including pump or water system output and irrigated area:

See Attached

J. Any other information the applicant believes is material:

See Attached

  
Applicant's Signature

Eric Ulass  
Print name of Applicant

05-06-2020  
Date

.....For District Use Only.....

Date Received: \_\_\_\_\_ Date Application Complete: \_\_\_\_\_ Control No: \_\_\_\_\_

Compliance: Yes \_\_\_\_\_ No \_\_\_\_\_ Form Sent \_\_\_\_\_ Received \_\_\_\_\_

Approved: \_\_\_\_\_

  
Date: May 8, 2020

**South Florida Water Management District  
Application for Variance**

**Catalina at Winkler Homeowners Association, Inc.**

A. Contact information and location of property completed on the application itself. Please see the application.

B. Specific rule, order, water shortage phase or restriction from which relief is requested.

**Response: We are seeking a variance pursuant to rule 40.E-21.275 F.A.C. per the irrigation/watering restrictions put in place for Lee County on April 24, 2020.**

C. Facts supporting this request (be as specific as possible-include reports by qualified technical experts).

**Response: Our community has 282 homes and we irrigate approximately 33.81 acres of turf. Our irrigation system is a Hoover Pump Site 5278 with a water design capacity of 600 gallons per minute (GPM). We have two homes per decoder. Our system, set up in 2006 is designed to irrigate the front half of our community on one day and the back half of our community on a second day. We are also unable to irrigate both the front half and back half of the community at the same time due to the gallons per minute required by our system.**

**To irrigate the front half of our community, the system requires 500 GPM to run and takes approximately 10.5 hours to irrigate. To irrigate the back half of our community, the system requires 450 GPM to run and takes approximately 11.5 hours to irrigate. If we were to try to irrigate both the front of the community and the back of the community at the same time, the irrigation pump would shut down since our system capacity would exceed 600 GPM.**

D. Description of relief requested.

**Response: We are requesting our irrigation schedule be the following during the water restriction timeframe:**

<b>Clock</b>	<b>Zones</b>	<b>Restricted Watering</b>	<b>Min. Total Each Day</b>	<b>Cycle/Soak Minutes</b>	<b>Minutes Total Each Week</b>
Front Clock	87	1 Day/Week Wednesday 12am 12 min. 6pm 12 min.	12	6/6	24
Back Clock	82	1 Day/Week Sunday 12am 12 min. 6pm 12 min.	12	6/6	24

Hoover Pump 600 gallons/min maximum  
 Hunter Clock has 3 overlapping Programs running A, B and C  
 Each program runs 3 zones at a time. See below

	Program A	Program B	Program C	Total Minutes
Zones	1	31	61	12
	2	32	62	12
	3	33	63	12
	To	To	to	12
	30	60	87	12

$12 * 30 = 360 / 60 = 6$  hours

We have HARD PAN SOIL. We use the Cycle and Soak watering feature so that the water soaks into the lawn and not run off into the street.

Please note that we have cut our water usage in half. Please see the chart below depicting our normal watering schedule.

The chart below depicts our normal irrigation schedule when no water restrictions are in place.

Clock	Zone	Normal Watering	Min. Total Each Day	Cycle/Soak Minutes	Minutes Total Each Week
Front Clock	87	2x/Week Wed/Sat 12am 12 min. 6pm 12 min.	24	12/12	48
Back Clock	82	2x/Week Thur/Sun 12am 12 min. 6pm 12 min.	24	12/12	48

E. Period of time for which variance is sought and the reasons and facts for such.

**Response:** The period of time for which the variance is sought will be the length of time that the water restrictions are in place. Once the water restrictions are lifted, we will resume our normal irrigation schedule. The reason we are requesting this variance to water a portion of our community on Wednesday and the remaining portion of the community on Sunday is because our system does not allow us to water the entire community in one day.

F. Damage or harm which may result from compliance with the Water Shortage Rule or Order:

**Response:** The damage or harm which may result from compliance with the Water Shortage Rule includes the death of approximately 33.81 acres of sod. If we are not able to follow our proposed "restricted irrigation plan" each lot will not be watered one time a week causing our sod to die. If our community is unable to water as requested, our sod will become more stressed than it already is



and start to die off. The Homeowners Association (HOA) is financially unable to replace over 33 acres of sod. The HOA also does not want to special assess any owners to replace the sod due to the COVID-19 pandemic. Many of our owners have lost their jobs or are currently on unemployment, waiting for money for the State. They do not have extra money to be special assessed to replace their sod. Our community will be in a financial hardship if we have to replace the sod.

G. If restrictions cannot be met because of extent or cost, describe measures necessary to meet all restrictions, restrictions which can be met, and the date of compliance.

**Response:** Since the restrictions were put in place on April 24, 2020 Catalina Isles started to irrigate our property as stated above using our “restricted irrigation plan” as shown in the first chart. We started to follow to follow this plan because this was the best that we could do with the system that we have. We needed to make sure each lot got irrigated one day a week and following the “restricted irrigation plan” we created allows for this.

H. If this request is for a golf course which is unable to meet the front nine-back nine requirements, submit a map showing the proposed alternative division of the course in half and an explanation of the proposed irrigation scheme.

**Response:** Does not apply

I. For applications for variance from restrictions on irrigation, provide a general description of the irrigation system, including pump or water system output and irrigated area.

**Response:** Our community has 282 homes and we irrigate approximately 33.81 acres of turf. Our irrigation system is a Hoover Pump Site 5278 with a water design capacity of 600 gallons per minute (GPM). We have two homes per decoder. Our system, set up in 2006 is designed to irrigate the front half of our community on one day and the back half of our community on a second day. We are also unable to irrigate both the front half and back half of the community at the same time due to the gallons per minute required by our system.

To irrigate the front half of our community, the system requires 500 GPM to run and takes approximately 10.5 hours to irrigate. To irrigate the back half of our community, the system requires 450 GPM to run and takes approximately 11.5 hours to irrigate. If we were to try to irrigate both the front of the community and the back of the community at the same time, the irrigation pump would shut down since our system capacity would exceed 600 GPM.

J. Any other information the applicant believes is material.

**Response:** Catalina Isles Board of Directors reached out to the SFWMD on the first business day (April 26, 2020) after the restrictions were put in place. We wanted to make the SFWMD aware that we were unable to conform to the restrictions put in place and sought a variance. We notified the SFWMD instead of getting a letter stating that we were in noncompliance. The Board of Directors wanted to the correct thing.

We thank you for your time and consideration in this matter.

Erica Maynard-Uliaz, M.S., P.W.S.  
Catalina Isles Board of Directors President

