



**US Army Corps
of Engineers**®
New England District
696 Virginia Road
Concord, MA 01742-2751

PUBLIC NOTICE

Comment Period Begins: 28 December 2010
Comment Period Ends: 28 January 2011
File Number: NAE 2009-00938
In Reply Refer To: Mr. Brian E. Valiton
Phone: (978) 318-8166
E-mail: brian.e.valiton@usace.army.mil

The District Engineer has received a permit application from the applicant below to **conduct work in waters of the United States** as described below.

APPLICANT: Dockside Realty Trust c/o Wayne Kurker

ACTIVITY: To perform a number of items of work, including dredging to various depths with upland disposal of the material, removing the existing fixed pier and adding pile-anchored floating docks, all to reconstruct and expand an existing marina and to establish a reconfiguration perimeter at the expanded facility within which pile-anchored floating docks can be reconfigured. The marina will accommodate 40 vessels. The work involves dredging of approximately 8900 cu. yds. of material to various depths (ranging from a depth of -6 feet m.l.w. to a depth of - 12 feet m.l.w.) from an area of approx. 95,400 sq. ft. and adding approx. 3636 sq. ft. of permanent and seasonal docks to what was previously authorized for a total of of 6538 sq. ft. of docks at the reconfigured facility.

A detailed description and plans of the activity are attached.

WATERWAY AND LOCATION OF THE PROPOSED WORK

This work is proposed in Hyannis Inner Harbor at School Street, Hyannis, Massachusetts. The proposed location on the USGS Hyannis quadrangle sheet is at zone 19 UTM coordinates 4611640.00 N and 0393725.00 E.

AUTHORITY

Permits are required pursuant to:

- Section 10 of the Rivers and Harbors Act of 1899
- Section 404 of the Clean Water Act
- Section 103 of the Marine Protection, Research and Sanctuaries Act).

The decision whether to issue a permit will be based on an evaluation of the probable impact of the proposed activity on the public interest. That decision will reflect the national concern for both protection and utilization of important resources. The benefit which may reasonably accrue from the proposal must be balanced against its reasonably foreseeable detriments. All factors which may be relevant to the proposal will be considered, including the cumulative effects thereof; among those are: conservation, economics, aesthetics, general environmental concerns, wetlands, cultural value, fish and wildlife values, flood hazards, flood plain value, land use, navigation, shoreline erosion and accretion, recreation, water supply and conservation, water quality, energy needs, safety, food production and, in general, the needs and welfare of the people.

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The Corps of Engineers is soliciting comments from the public; Federal, state, and local agencies and officials; Indian Tribes; and other interested parties in order to consider and evaluate the impacts of this proposed activity. Any comments received will be considered by the Corps of Engineers to determine whether to issue, modify, condition or deny a permit for this proposal. To make this decision, comments are used to assess impacts on endangered species, historic properties, water quality, general environmental effects, and the other public interest factors listed above. Comments are used in the preparation of an Environmental Assessment and/or an Environmental Impact Statement pursuant to the National Environmental Policy Act. Comments are also used to determine the need for a public hearing and to determine the overall public interest of the proposed activity.

ESSENTIAL FISH HABITAT

The Magnuson-Stevens Fishery Conservation and Management Act, as amended by the Sustainable Fisheries Act of 1996 (Public Law 104-267), requires all federal agencies to consult with the National Marine Fisheries Service on all actions, or proposed actions, permitted, funded, or undertaken by the agency, that may adversely affect Essential Fish Habitat (EFH).

The dredging portion of this project will impact approximately 95,400 SF of Essential Fish Habitat (EFH) for Atlantic butterfish (eggs, larvae, juveniles, adults), Atlantic cod (adults), Atlantic mackerel (eggs, larvae, juveniles, adults), winter flounder (eggs, larvae, juveniles, adults), windowpane flounder (adults), long-finned squid (juveniles, adults), summer flounder (eggs, larvae, juveniles, adults), scup (juveniles, adults), black sea bass (larvae, juveniles, adults), surf clam (juveniles, adults), king mackerel (eggs, larvae, juveniles, adults), Spanish mackerel (eggs, larvae, juveniles, adults), and cobia (eggs, larvae, juveniles, adults). Habitat at this site can be described as silt and sand. The sediments in the vicinity of the Dockside Realty Trust property are "...soft, black and muddy with a strong odor of sulphides..." (EFH Assessment for maintenance dredging at Dockside Marina rec'd by Corps 12/13/2010). Loss of this habitat is not likely to adversely affect any species utilizing the area since the harbor bottom is of poor habitat quality and any life stages of any species utilizing the area would only be present during the months when dredging would not be occurring because of the State imposed time of year restrictions. Therefore, the District Engineer has made a preliminary determination that the site-specific adverse effect will not be substantial. Further consultation with the National Marine Fisheries Service regarding EFH conservation recommendations is being conducted and will be concluded prior to the final decision.

SECTION 106 COORDINATION

Based on his initial review, the District Engineer has determined that little likelihood exists for the proposed work to impinge upon properties with cultural or Native American significance, or listed in, or eligible for listing in, the National Register of Historic Places. Therefore, no further consideration of the requirements of Section 106 of the National Historic Preservation Act of 1966, as amended, is necessary. This determination is based upon one or more of the following:

- a. The permit area has been extensively modified by previous work.
- b. The permit area has been recently created.
- c. The proposed activity is of limited nature and scope.
- d. Review of the latest published version of the National Register shows that no presence of registered properties listed as being eligible for inclusion therein are in the permit area or general vicinity.
- e. Coordination with the State Historic Preservation Officer and/or Tribal Historic Preservation

Officer(s).

ENDANGERED SPECIES CONSULTATION

The New England District, Army Corps of Engineers has reviewed the list of species protected under the Endangered Species Act of 1973, as amended, which might occur at the project site. It is our preliminary determination that the proposed activity for which authorization is being sought is designed, situated or will be operated/used in such a manner that it is not likely to adversely affect any Federally listed endangered or threatened species or their designated critical habitat. By this Public Notice, we are requesting that the appropriate Federal Agency concur with our determination.

The States of Connecticut, Maine, Massachusetts, New Hampshire and Rhode Island have approved **Coastal Zone Management Programs**. Where applicable the applicant states that any proposed activity will comply with and will be conducted in a manner that is consistent with the approved Coastal Zone Management Program. By this Public Notice, we are requesting the State concurrence or objection to the applicant's consistency statement.

The following authorizations have been applied for, or have been, or will be obtained:

- (X) Permit, License or Assent from State.
- (X) Permit from Local Wetland Agency or Conservation Commission.
- (X) Water Quality Certification in accordance with Section 401 of the Clean Water Act.

In order to properly evaluate the proposal, we are seeking public comment. Anyone wishing to comment is encouraged to do so. **Comments should be submitted in writing by the above date.** If you have any questions, please contact Mr. Brian Valiton at (978) 318-8166, (800) 343-4789 or (800) 362-4367, if calling from within Massachusetts.

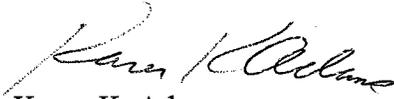
Any person may request, in writing, within the comment period specified in this notice, that a public hearing be held to consider the application. Requests for a public hearing shall specifically state the reasons for holding a public hearing. The Corps holds public hearings for the purpose of obtaining public comments when that is the best means for understanding a wide variety of concerns from a diverse segment of the public.

The initial determinations made herein will be reviewed in light of facts submitted in response to this notice. All comments will be considered a matter of public record. Copies of letters of objection will be forwarded to the applicant who will normally be requested to contact objectors directly in an effort to reach an understanding.

In accordance with 33 CFR 325.2(a)(8), we publish monthly a list of permits issued or denied during the previous month at www.nae.usace.army.mil/reg, under the heading "Monthly General and Individual Permit Authorizations." Relevant environmental documents and the Statement Of Findings (SOFs) or Record of Decisions (RODs) are available upon written request and, where applicable, upon the payment of administrative fees. Also visit www.nae.usace.army.mil for more information on the New England District Corps of Engineers programs.

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THIS NOTICE IS NOT AN AUTHORIZATION TO DO ANY WORK.



Karen K. Adams
Chief, Permits and Enforcement Branch
Regulatory Division

If you would prefer not to continue receiving Public Notices, please contact Ms. Tina Chaisson at (978) 318-8058 or e-mail her at bettina.m.chaisson@usace.army.mil. You may also check here () and return this portion of the Public Notice to: Bettina Chaisson, Regulatory Division, U.S. Army Corps of Engineers, 696 Virginia Road, Concord, MA 01742-2751.

NAME: _____

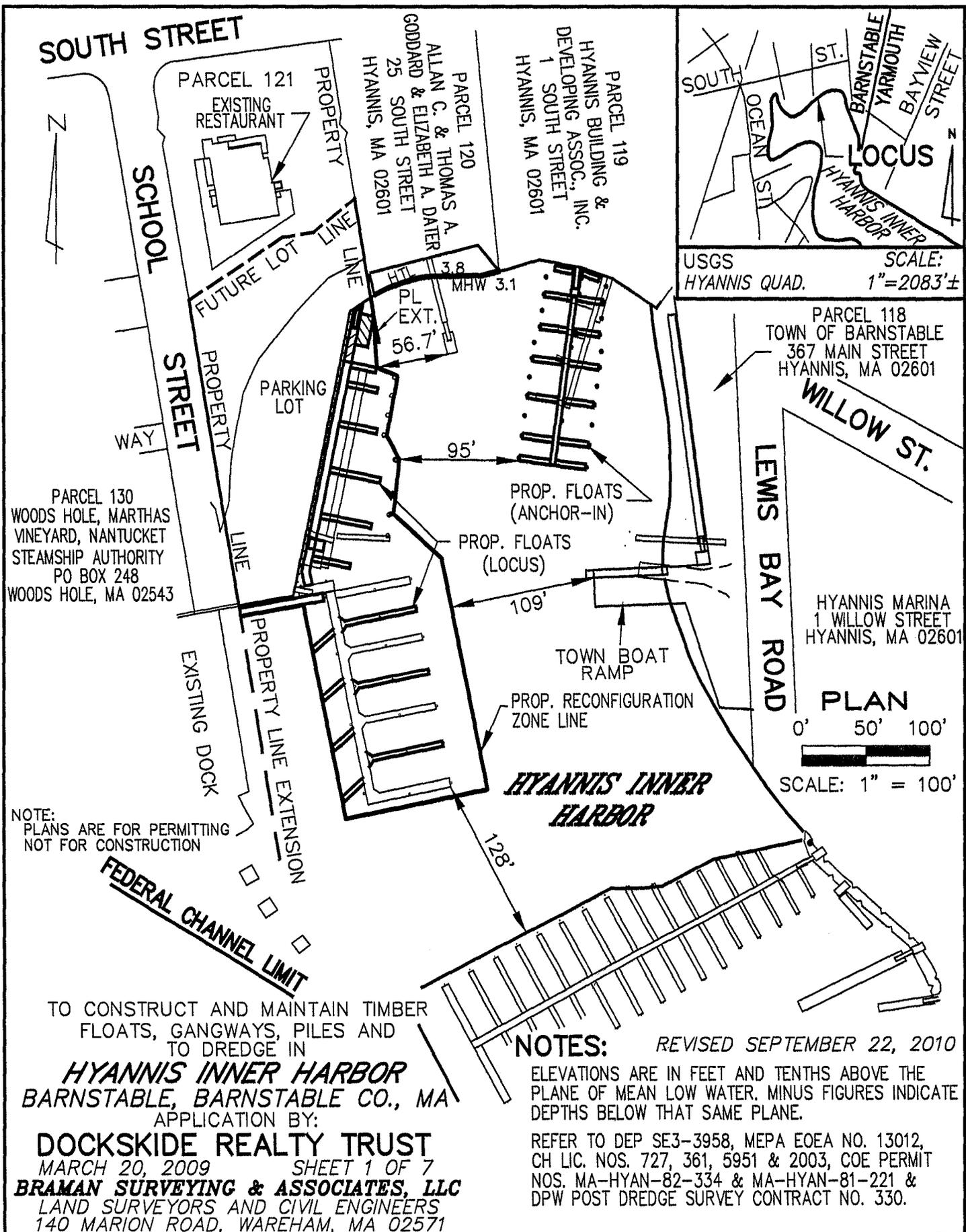
ADDRESS: _____

PROPOSED WORK AND PURPOSE

The proposed work includes dredging to various depths as shown on the drawings, with upland disposal, and other items of work including removing an existing fixed pier, installing new permanent and seasonal pile-anchored docks, and to establish a reconfiguration zone around the docks to be permitted. This work is for the purpose of rebuilding, expanding and improving an existing long standing marina facility in Hyannis Inner Harbor so that larger and deeper draft vessels can be accommodated. The detailed work is set out as follows:

- a. To remove an existing fixed pile-supported pier;
- b. To mechanically dredge, with upland disposal of the material after it has been de-watered on the nearby marina parking lot (with adequate erosion protection), approximately 8900 cu. yds. of material to various depths ranging from - 6 feet m.l.w. to -16 feet m.l.w. from an area of approx. 95, 400 sq. ft. (includes both new and maintenance dredging);
- c. To construct and maintain a new pile-anchored dock system totalling 6538 sq. ft. of pile-anchored dock space accommodating 40 vessels;
- d. To establish a reconfiguration zone around the existing permitted docks at this facility.

The work is described on the enclosed plans entitled "TO CONSTRUCT AND MAINTAIN TIMBER FLOATS, GANGWAYS, PILES AND TO DREDGE IN HYANNIS INNER HARBOR BARNSTABLE, BARNSTABLE CO., MA APPLICATION BY: DOCKSIDE REALTY TRUST," on 7 sheets, and dated "March 20, 2009 and revised on September 22, 2010".



USGS HYANNIS QUAD. SCALE: 1"=2083'±

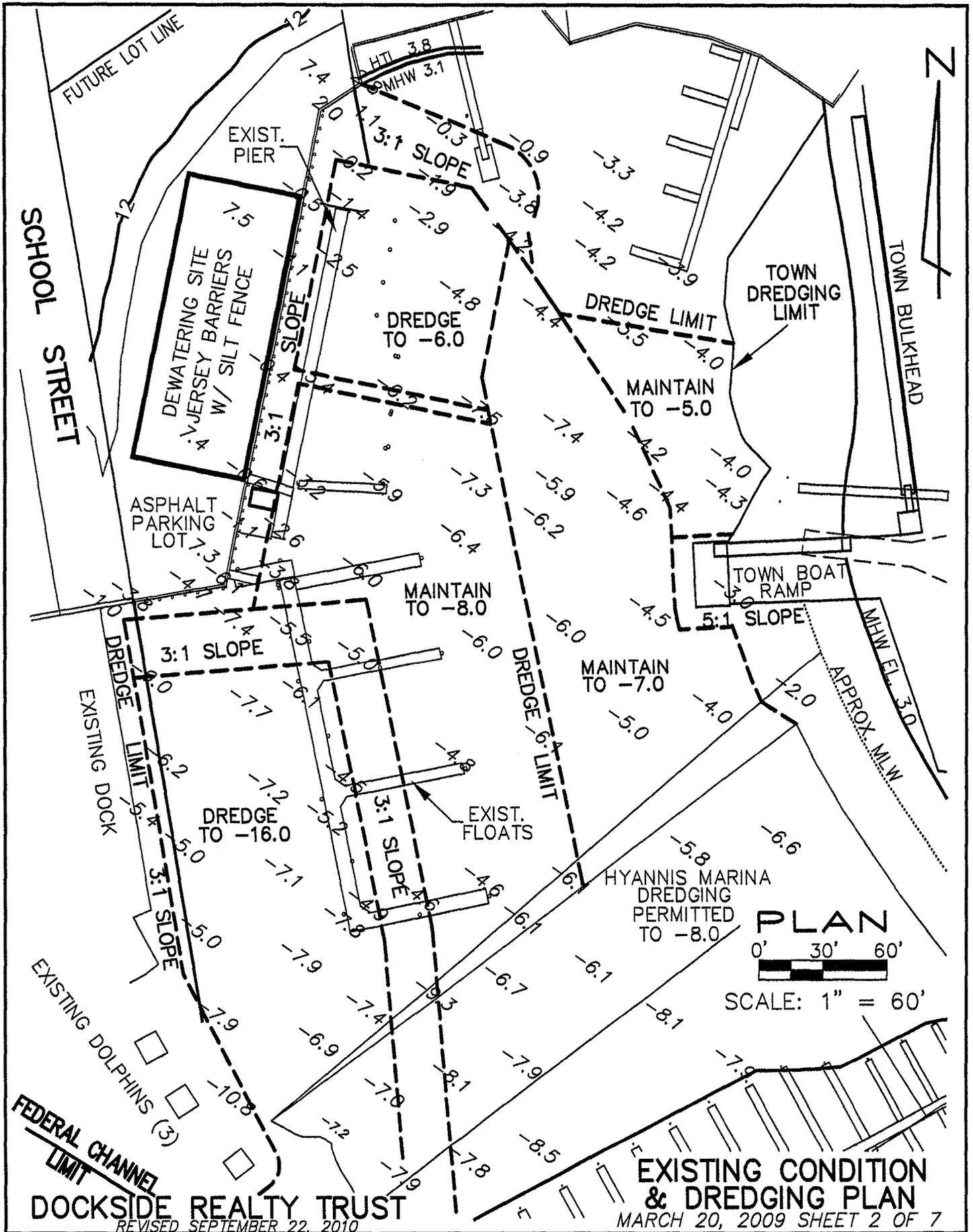
PARCEL 118 TOWN OF BARNSTABLE 367 MAIN STREET HYANNIS, MA 02601

HYANNIS MARINA 1 WILLOW STREET HYANNIS, MA 02601
PLAN
 0' 50' 100'
 SCALE: 1" = 100'

NOTE:
 PLANS ARE FOR PERMITTING
 NOT FOR CONSTRUCTION

TO CONSTRUCT AND MAINTAIN TIMBER
 FLOATS, GANGWAYS, PILES AND
 TO DREDGE IN
HYANNIS INNER HARBOR
 BARNSTABLE, BARNSTABLE CO., MA
 APPLICATION BY:
DOCKSIDE REALTY TRUST
 MARCH 20, 2009 SHEET 1 OF 7
BRAMAN SURVEYING & ASSOCIATES, LLC
 LAND SURVEYORS AND CIVIL ENGINEERS
 140 MARION ROAD, WAREHAM, MA 02571

NOTES: REVISED SEPTEMBER 22, 2010
 ELEVATIONS ARE IN FEET AND TENTHS ABOVE THE
 PLANE OF MEAN LOW WATER. MINUS FIGURES INDICATE
 DEPTHS BELOW THAT SAME PLANE.
 REFER TO DEP SE3-3958, MEPA EOE A NO. 13012,
 CH LIC. NOS. 727, 361, 5951 & 2003, COE PERMIT
 NOS. MA-HYAN-82-334 & MA-HYAN-81-221 &
 DPW POST DREDGE SURVEY CONTRACT NO. 330.



FUTURE LOT LINE

SCHOOL STREET

DEWATERING SITE
X VERSEY BARRIERS
W/ SILT FENCE

EXIST. PIER

ASPHALT
PARKING
LOT

EXISTING DOCK

EXISTING DOLPHINS (3)

FEDERAL CHANNEL
LIMIT
DOCKSIDE REALTY TRUST
REVISED SEPTEMBER 22, 2010

HTL 3.8
MHW 3.1

3:1 SLOPE

DREDGE
TO -6.0

MAINTAIN
TO -8.0

DREDGE
TO -16.0

EXIST.
FLOATS

3:1 SLOPE

MAINTAIN
TO -7.0

HYANNIS MARINA
DREDGING
PERMITTED
TO -8.0

PLAN

0' 30' 60'

SCALE: 1" = 60'

EXISTING CONDITION
& DREDGING PLAN

MARCH 20, 2009 SHEET 2 OF 7

TOWN BULKHEAD

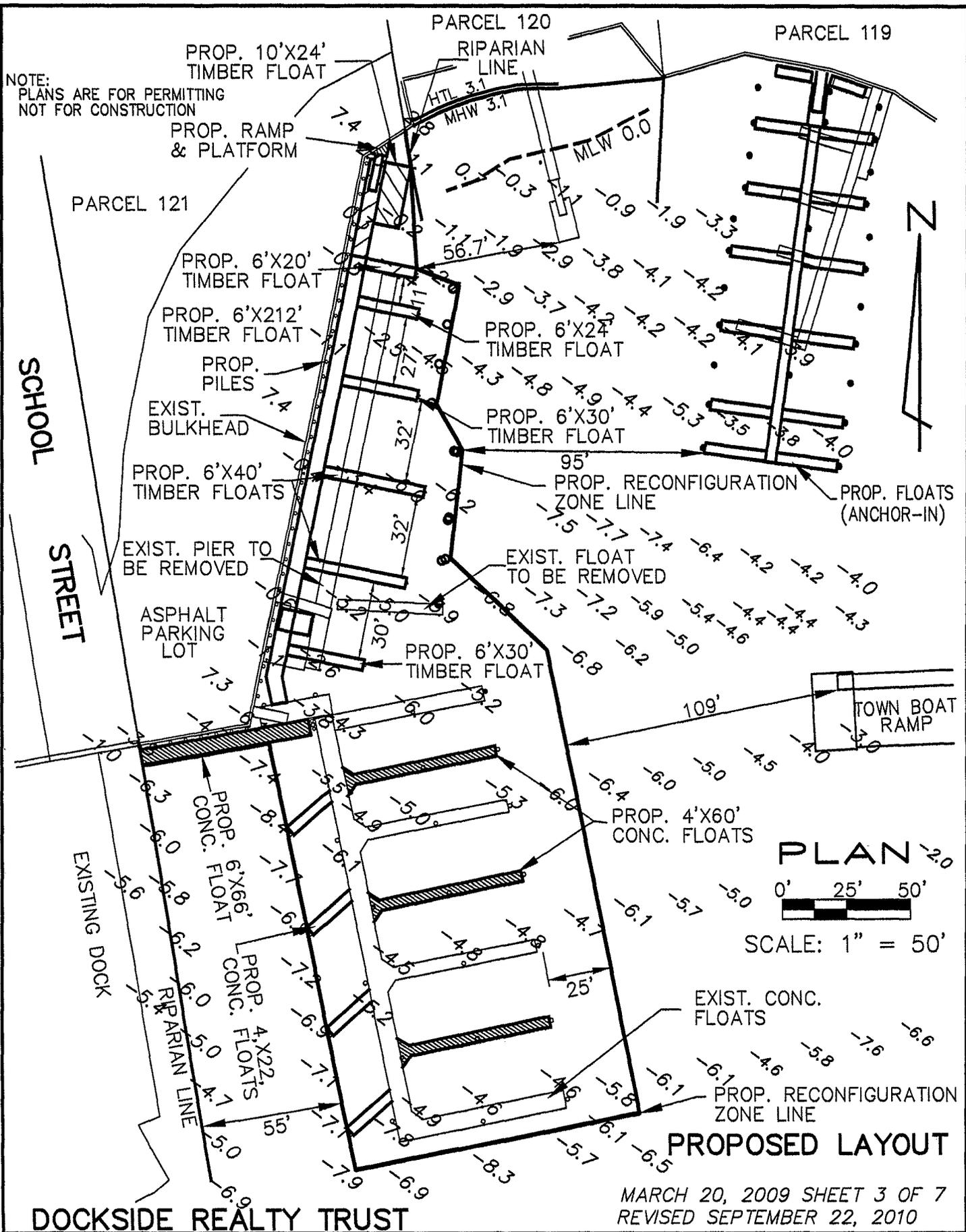
TOWN
DREDGING
LIMIT

TOWN BOAT
RAMP

MHW EL. 3.0
APPROX. M.L.W.



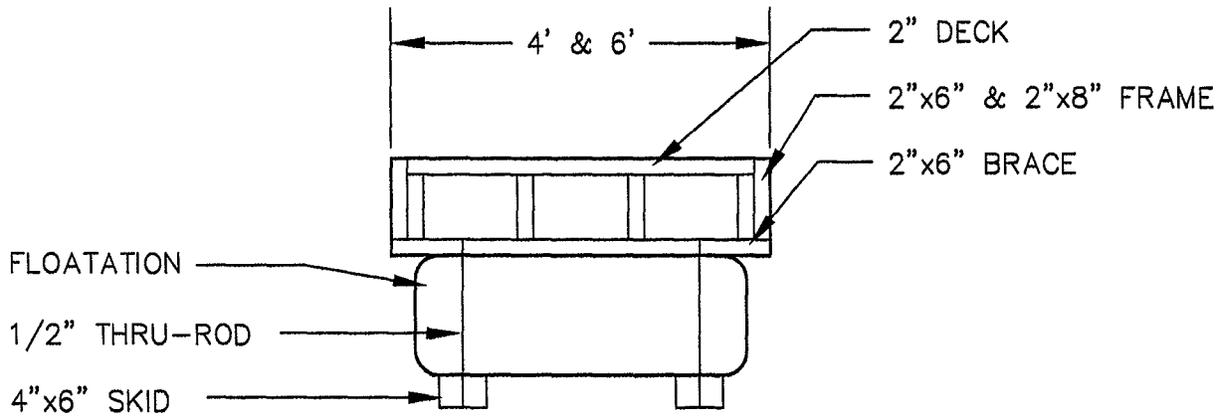
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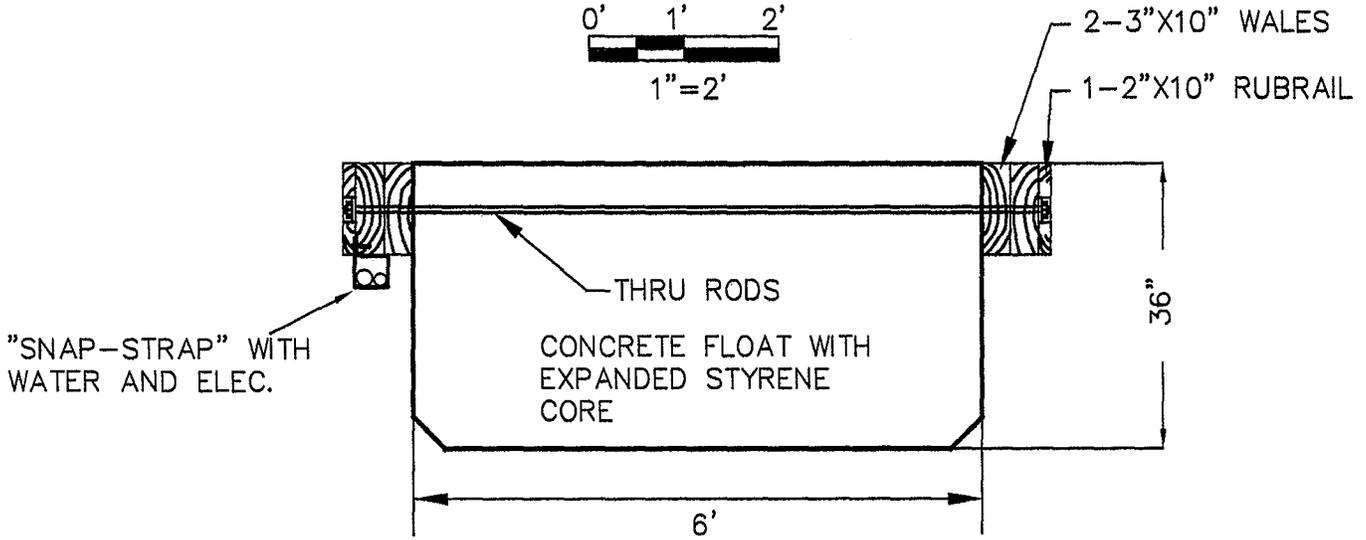
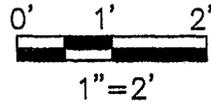
PROPOSED LAYOUT

MARCH 20, 2009 SHEET 3 OF 7
REVISED SEPTEMBER 22, 2010

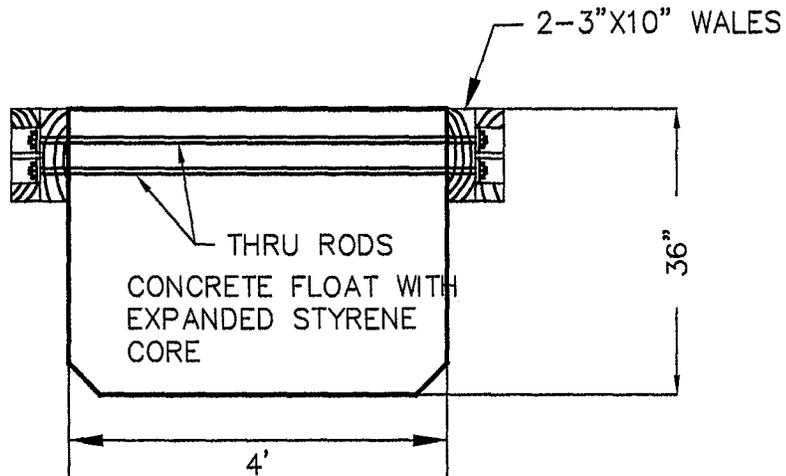
DOCKSIDE REALTY TRUST



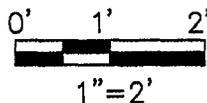
TIMBER FLOAT SECTION

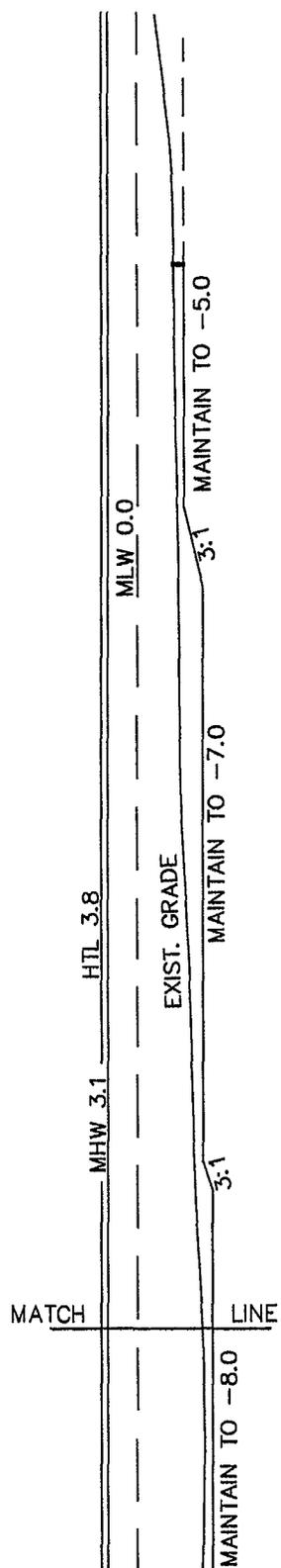
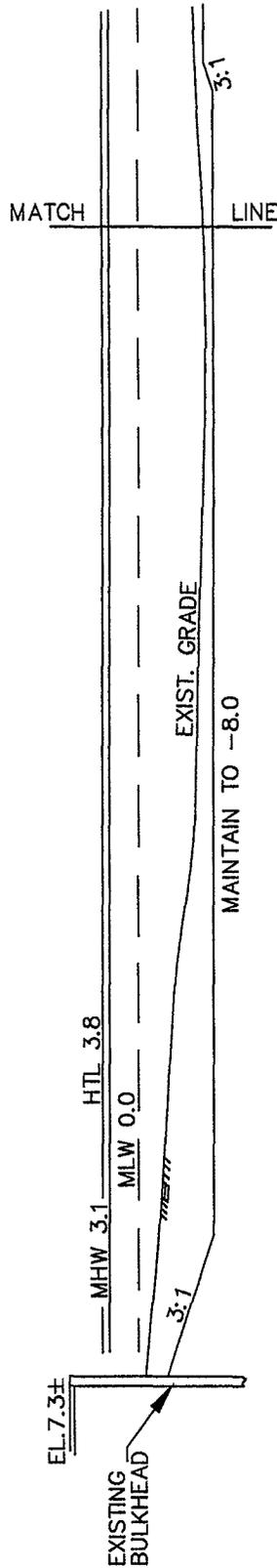


NOTE:
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CONCRETE FLOAT SECTION





TYPICAL DREDGE SECTION



