DEPARTMENT OF THE ARMY
CORPS OF ENGINEERS, JACKSONVILLE DISTRICT
PENSACOLA REGULATORY OFFICE
41 NORTH JEFFERSON STREET, SUITE 301
PENSACOLA, FLORIDA 32502

August 16, 2019

REPLY TO ATTENTION OF
Regulatory Division
North Branch
Pensacola Permits Section

PUBLIC NOTICE

Permit Application No. SAJ-2019-02790 (SP-MDZ)

TO WHOM IT MAY CONCERN: The Jacksonville District of the U.S. Army Corps of Engineers (Corps) has received an application for a Department of the Army permit pursuant to Section 404 of the Clean Water Act (33 U.S.C. §1344) and Section 10 of the Rivers and Harbors Act of 1899 (33 U.S.C. §403) as described below:

APPLICANT: Nathan Green
6561 Tidal Bay Drive
Milton, Florida 32583

WATERWAY AND LOCATION: The project would affect waters of the United States associated with Blackwater Bay. The project site is located at 6561 Tidal Bay Drive, Tax Parcel IDs 13-1S-28-0000-00102-0000 and 13-1S-28-0000-00103-0000, in Section 13, Township 01 South, Range 28 West, Milton, Santa Rosa County, Florida.

Directions to the site are as follows: From Pensacola, head east on I-10 E towards Tallahassee. Take exit for FL-281 S and turn right onto Avalon Blvd. Turn left onto Mary Kitchens Road and left onto Garcon Point Road. Then, turn right onto Tidal Bay Drive. The project site is located on the right.

APPROXIMATE CENTRAL COORDINATES: Latitude 30.525431°
Longitude -87.040183°

PROJECT PURPOSE:

Basic: shoreline stabilization and aquatic habitat enhancement

Overall: to construct a living shoreline to enhance the aquatic habitat of Blackwater Bay in Santa Rosa County, Florida.

EXISTING CONDITIONS: The site is comprised of a narrow sandy shoreline with few patches of marsh vegetation (*Spartina alterniflora* and *Juncus roemerianus*). The project site is bordered by an expansive area of tidal marsh to the west. The site is located in Blackwater Bay, approximately 1.23 miles north of the Blackwater River Gulf Sturgeon Critical Habitat Migratory Restriction Zone boundary defined in the Jacksonville District Programmatic Biological Opinion (JAXBO). Similar projects, on a smaller scale, were

authorized by the Corps immediately south of the project site. The submerged bottoms are characterized by low relief sandy and silty substrates. There are no hard bottoms, mangroves, sea grasses, corals, or oyster beds in the project area.

PROPOSED WORK: The applicant seeks authorization to construct a living shoreline project on private residential property. The living shoreline project would consist of shoreline planting in the intertidal zone and near shore oyster shell breakwaters. The project would extend 1,700 linear feet running parallel to the shoreline of Blackwater Bay. The shoreline planting would consist of planting *Juncus roemerianus*, *Spartina patens*, and *Spartina alterniflora* in the intertidal zone (25,000 square feet). The breakwaters would be constructed starting at 12-feet waterward of the mean high water line (MHWL) and extend to a maximum 20-feet waterward of the MHWL. Each breakwater section would measure 4.5-feet by 20-feet with a minimum 5-foot gap between each breakwater section. The project would use 65 breakwaters in total (5,850 square feet).

AVOIDANCE AND MINIMIZATION INFORMATION – The applicant has provided the following information in support of efforts to avoid and/or minimize impacts to the aquatic environment:

“The primary goal of this project is to use the minimum amount of hardened structure possible (recycled oyster shells in bags in conjunction with limestone rock), which in and of itself will serve as habitat for a variety of species, to stabilize native intertidal and upland vegetation along the length of the property. The expanded intertidal marsh will also serve as habitat. Due to the expansive existing marsh landward of the sandy, partially vegetated shoreline, a seawall or rip rap revetment would have significant impact to the shoreline habitat as it exists in its current state and would not be feasible. Examples of avoidance and minimization include but are not limited to reef heights being consistent with MHW and channel gaps being maintained at 5 feet for every 20 feet of structure to limit the overall structural footprint and volume of material needed.”

The applicant agreed to adhere to the NMFS’s Sea Turtle and Smalltooth Sawfish Construction Conditions, dated March 23, 2006. Best management practices would be utilized to prevent impacts due to turbidity including the use of turbidity curtains to contain any turbidity generated from construction activities. All work would be conducted during daylight hours only and would be completed by hand labor.

COMPENSATORY MITIGATION – The applicant has provided the following explanation why compensatory mitigation should not be required:

“All structures and materials associated with this project, whether a part of the reef or installed marsh habitat, will provide nursery and foraging grounds for numerous aquatic and nearshore species. No aspects of this project are intended or expected to have negative impacts to any existing habitat or adjacent areas. Furthermore, once established, this project will have created or enhanced up to approximately 1 acre of

oyster reef, fish, and intertidal marsh habitat. Therefore we do not think compensatory mitigation is consistent with the nature of this project."

CULTURAL RESOURCES: The Corps is not aware of any known historic properties within the permit area. By copy of this public notice, the Corps is providing information for review. Our final determination relative to historic resource impacts is subject to review by and coordination with the State Historic Preservation Officer and those federally recognized tribes with concerns in Florida and the Permit Area.

ENDANGERED SPECIES: Since the proposal by the application is for in-water construction, potential impacts to the endangered West Indian Manatee were evaluated using The Corps of Engineers, Jacksonville District, and the State of Florida Effect Determination Key for the Manatee in Florida (Key), 2013. Based on used of the Manatee Key, the Corps has determined that the proposed project may affect, but is not likely to adversely affect the West Indian Manatee.

The Corps has reviewed the potential impacts to the Gulf sturgeon (Acipenser oxyrinchus desotoi), smalltooth sawfish (Pristis pectinata), and swimming sea turtles, specifically the loggerhead sea turtle (Caretta caretta), green sea turtle (Chelonia mydas), and Kemp's ridley sea turtle (Lepidochelys kempii). The Corps has determined the proposed project may affect, but is not likely to adversely affect the above listed species. The Corps will request National Marine Fisheries Service concurrence with this determination pursuant to Section 7 of the Endangered Species Act by a separate letter.

ESSENTIAL FISH HABITAT (EFH): This notice initiates consultation with the National Marine Fisheries Service on EFH as required by the Magnuson-Stevens Fishery Conservation and Management Act 1996. Our initial determination is that the proposed action would not have a substantial adverse impact on EFH or Federally managed fisheries in the Blackwater Bay. Our final determination relative to project impacts and the need for mitigation measures is subject to review by and coordination with the National Marine Fisheries Service.

NOTE: This public notice is being issued based on information furnished by the applicant. This information has not been verified or evaluated to ensure compliance with laws and regulation governing the regulatory program. The jurisdictional line [has/has not] been verified by Corps personnel.

AUTHORIZATION FROM OTHER AGENCIES: Water Quality Certification may be required from the Florida Department of Environmental Protection and/or one of the state Water Management Districts.

COMMENTS regarding the potential authorization of the work proposed should be submitted in writing to the attention of the District Engineer through the Pensacola Permits Section, 41 North Jefferson Street, Suite 301, Pensacola, Florida 32502 within 21 days from the date of this notice.

The decision whether to issue or deny this permit application will be based on the information received from this public notice and the evaluation of the probable impact to the associated wetlands. This is based on an analysis of the applicant's avoidance and minimization efforts for the project, as well as the compensatory mitigation proposed.

QUESTIONS concerning this application should be directed to the project manager, Mia Zarbo, in writing at the Pensacola Permits Section, 41 North Jefferson Street, Suite 301, Pensacola, Florida 32502; by electronic mail at maria.d.zarbo@usace.army.mil; or, by telephone at (850)439-3474.

IMPACT ON NATURAL RESOURCES: Coordination with U.S. Fish and Wildlife Service, Environmental Protection Agency (EPA), the National Marine Fisheries Services, and other Federal, State, and local agencies, environmental groups, and concerned citizens generally yields pertinent environmental information that is instrumental in determining the impact the proposed action will have on the natural resources of the area.

EVALUATION: The decision whether to issue a permit will be based on an evaluation of the probable impact including cumulative impacts of the proposed activity on the public interest. That decision will reflect the national concern for both protection and utilization of important resources. The benefits, which reasonably may be expected to 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 cumulative impacts thereof; among these are conservation, economics, esthetics, general environmental concerns, wetlands, historical properties, fish and wildlife values, flood hazards, floodplain values, land use, navigation, shoreline erosion and accretion, recreation, water supply and conservation, water quality, energy needs, safety, food, and fiber production, mineral needs, considerations of property ownership, and in general, the needs and welfare of the people. Evaluation of the impact of the activity on the public interest will also include application of the guidelines promulgated by the Administrator, EPA, under authority of Section 404(b) of the Clean Water Act or the criteria established under authority of Section 102(a) of the Marine Protection Research and Sanctuaries Act of 1972. A permit will be granted unless its issuance is found to be contrary to the public interest.

The US Army Corps of Engineers (Corps) 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 to determine whether to issue, modify, condition, or deny a permit for this proposal. To make this determination, comments are used to assess impacts to endangered species, historic properties, water quality, general environmental effects, and the other public interest factors listed above. Comments are also used to determine the need for a public hearing and to determine the overall public interest of the proposed activity.

COASTAL ZONE MANAGEMENT CONSISTENCY: In Florida, the State approval constitutes compliance with the approved Coastal Zone Management Plan. In Puerto Rico, a Coastal Zone Management Consistency Concurrence is required from the Puerto Rico Planning Board. In the Virgin Islands, the Department of Planning and Natural Resources permit constitutes compliance with the Coastal Zone Management Plan.

REQUEST FOR PUBLIC HEARING: Any person may request a public hearing. The request must be submitted in writing to the District Engineer within the designated comment period of the notice and must state the specific reasons for requesting the public hearing.

Green Living Shoreline Project

Legend

- ~ Project Boundary
- Property Boundary
- Section Boundary
- End of Project N/S

Oyster Reefs: 65 @ 20ftx4.5ftx2.5ft
Total Reef Footprint: 0.134 AC
Total Veg Footprint: 0.58 AC
Total Project Footprint: < 1.0 AC

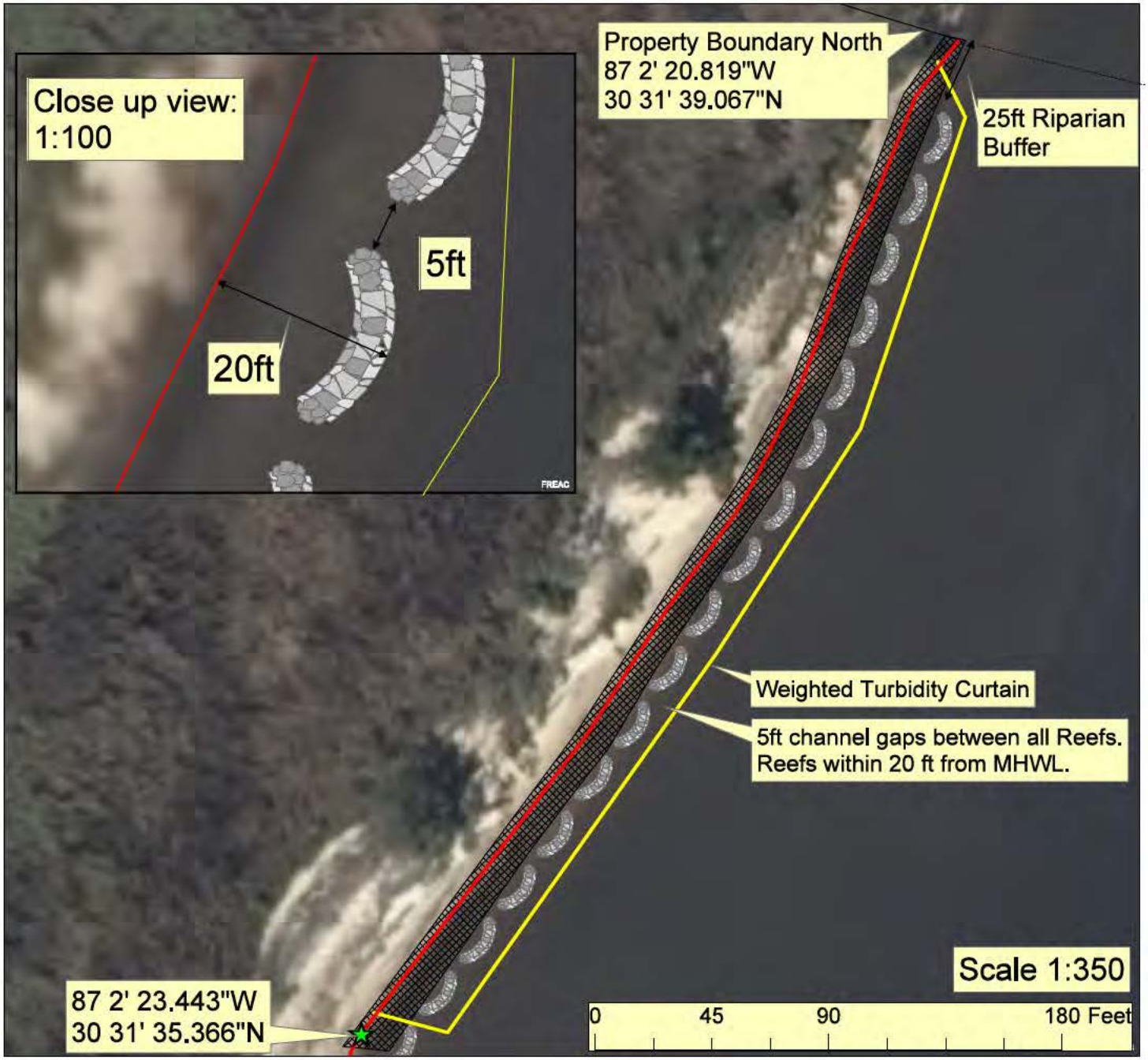
Map Created By:
FDEP NWFLAP
07-9-19

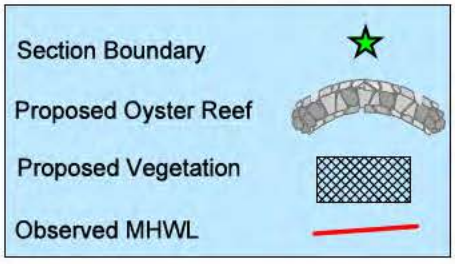
Sec: 13
Twn: 01S
Rng: 28W

N
W E
S

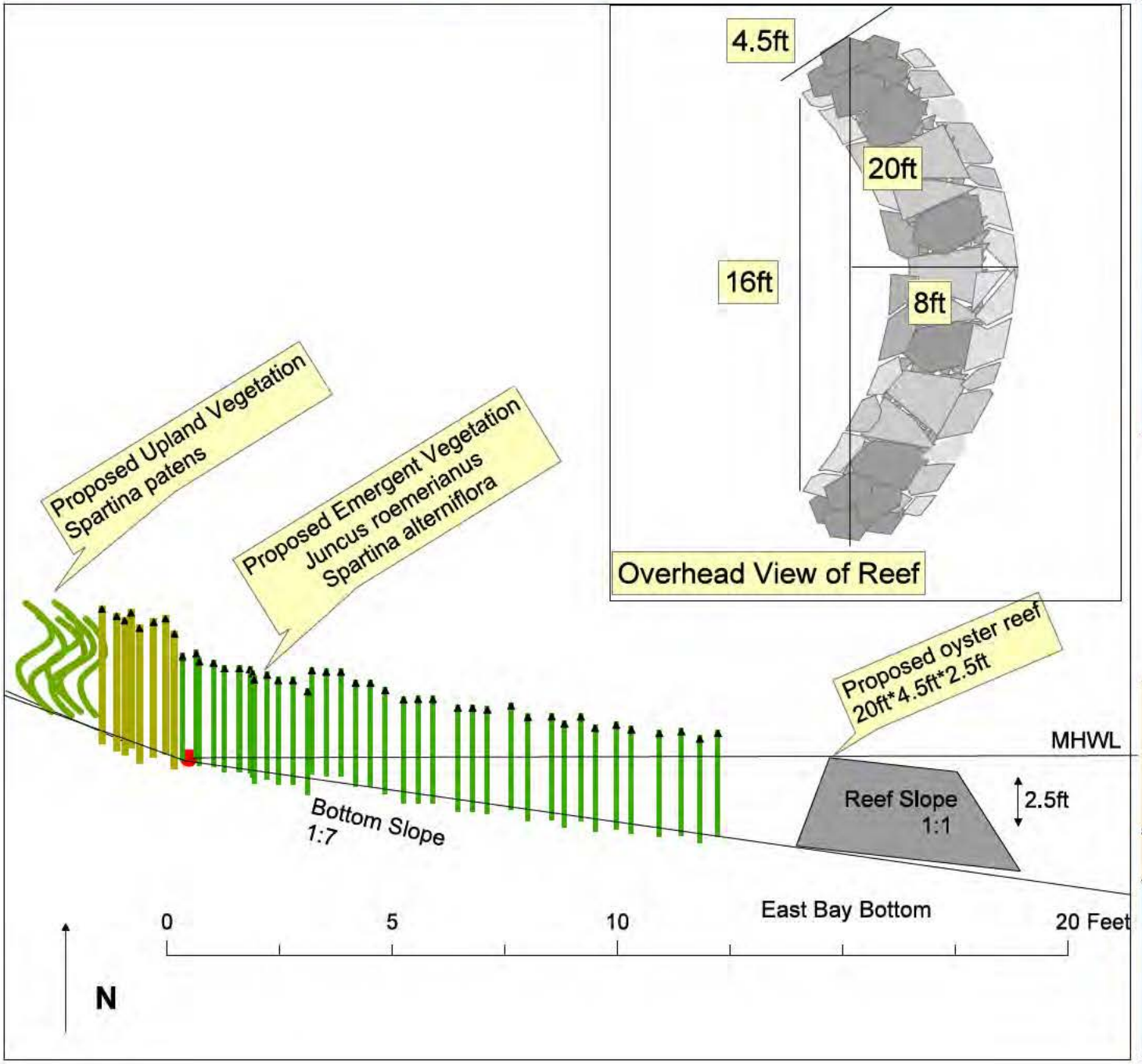
Scale 1:3,000

Green LS - Section A





Green LS Cross Section - Section A



Legend

- Spartina patens
- Juncus roemerianus
- Spartina alterniflora
- Proposed Oyster Reef
- Mean High Water
- Project Location

Diagram Created By:
Zach Schang
Environmental Specialist
FDEP NWFLAP
07-11-2019
Scale 1:20

Green LS - Section B

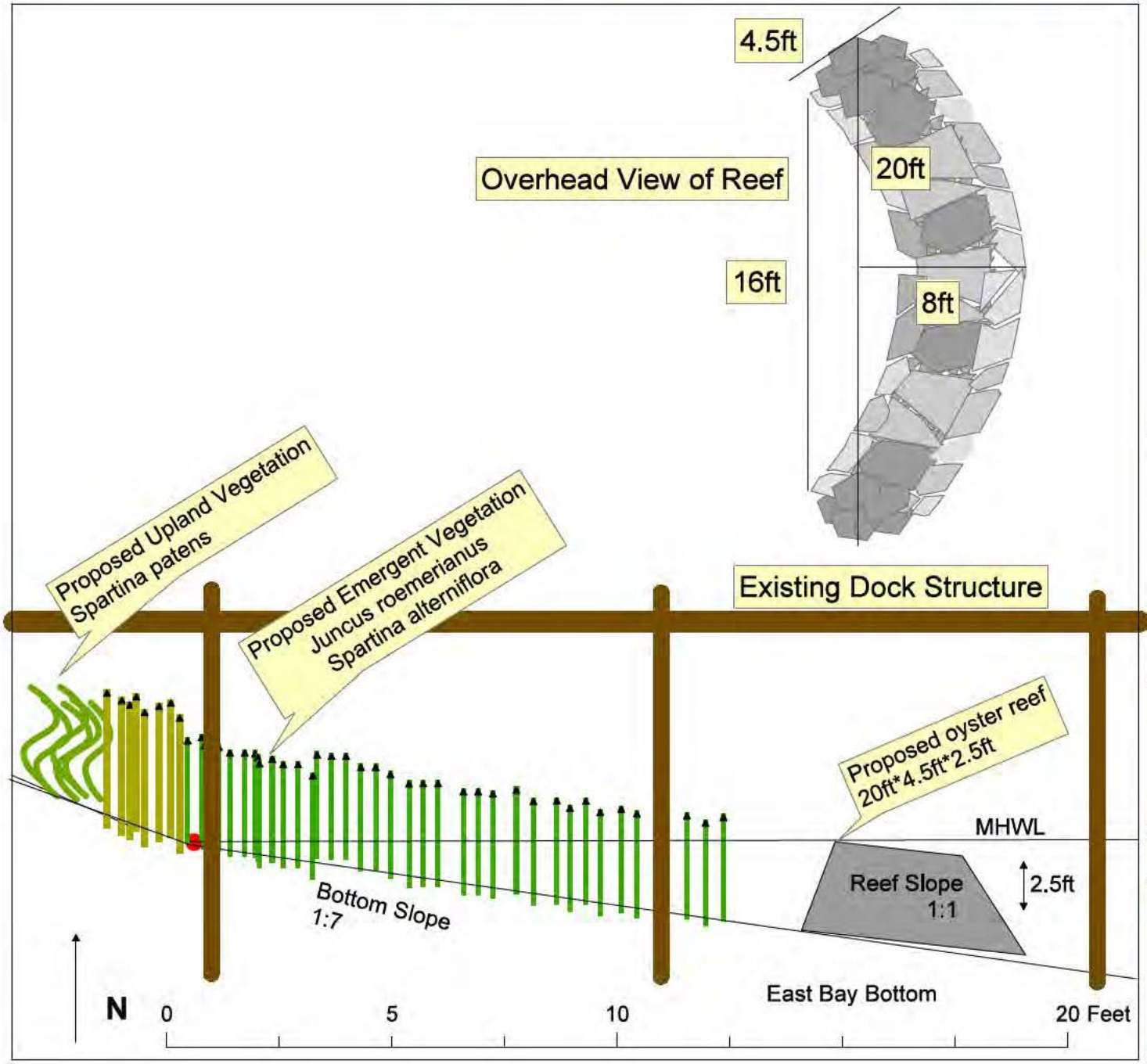
Section Boundary

Proposed Oyster Reef

Proposed Vegetation

Observed MHWL

Green LS Cross Section - Section B



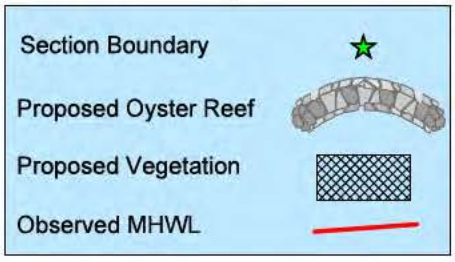
Legend

- Spartina patens
- Juncus roemerianus
- Spartina alterniflora
- Proposed Oyster Reef
- Mean High Water
- Project Location

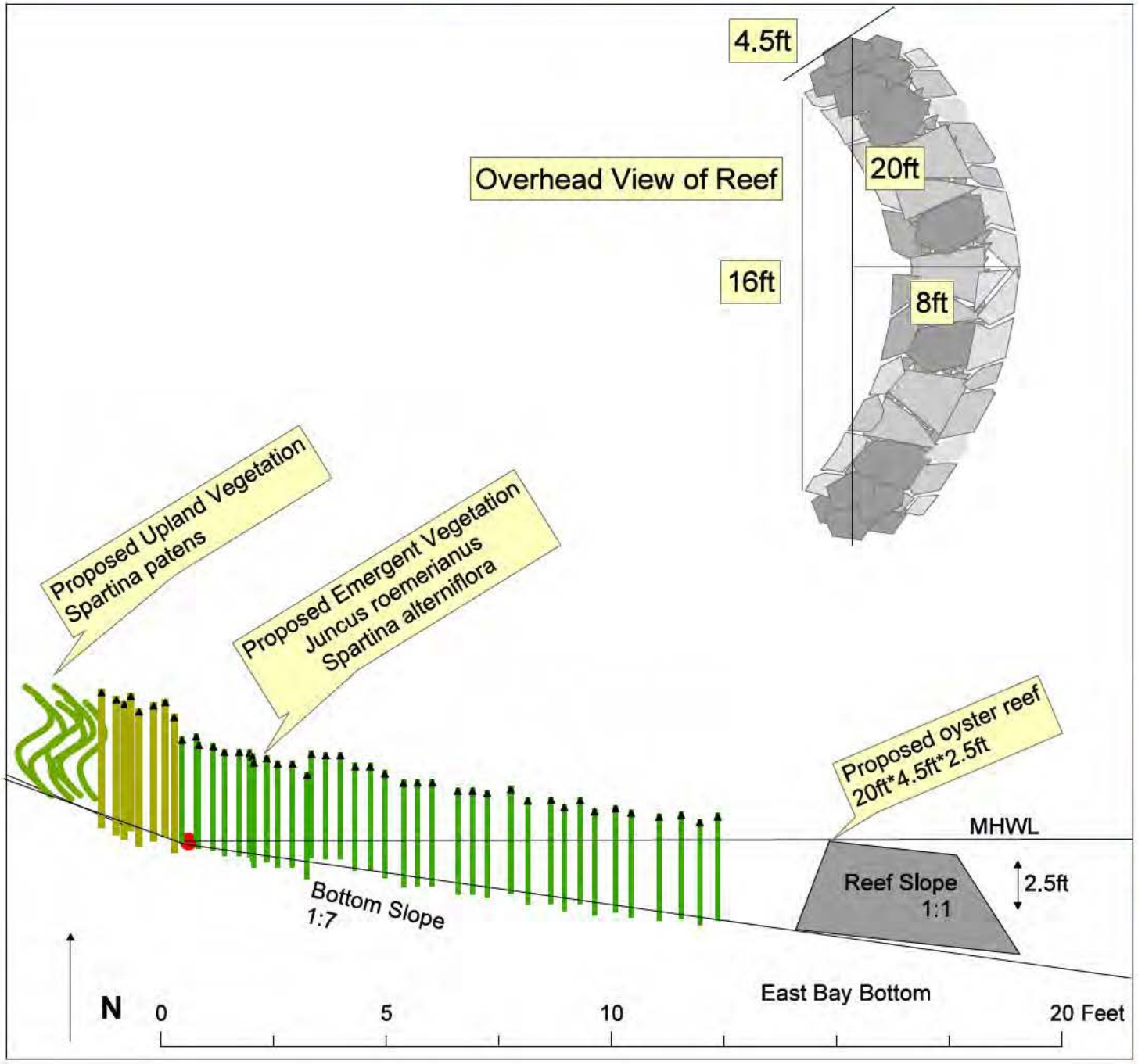
Diagram Created By:
Zach Schang
Environmental Specialist
FDEP NWFLAP

07-11-2019
Scale 1:20

Green LS - Section C



Green LS Cross Section - Section C

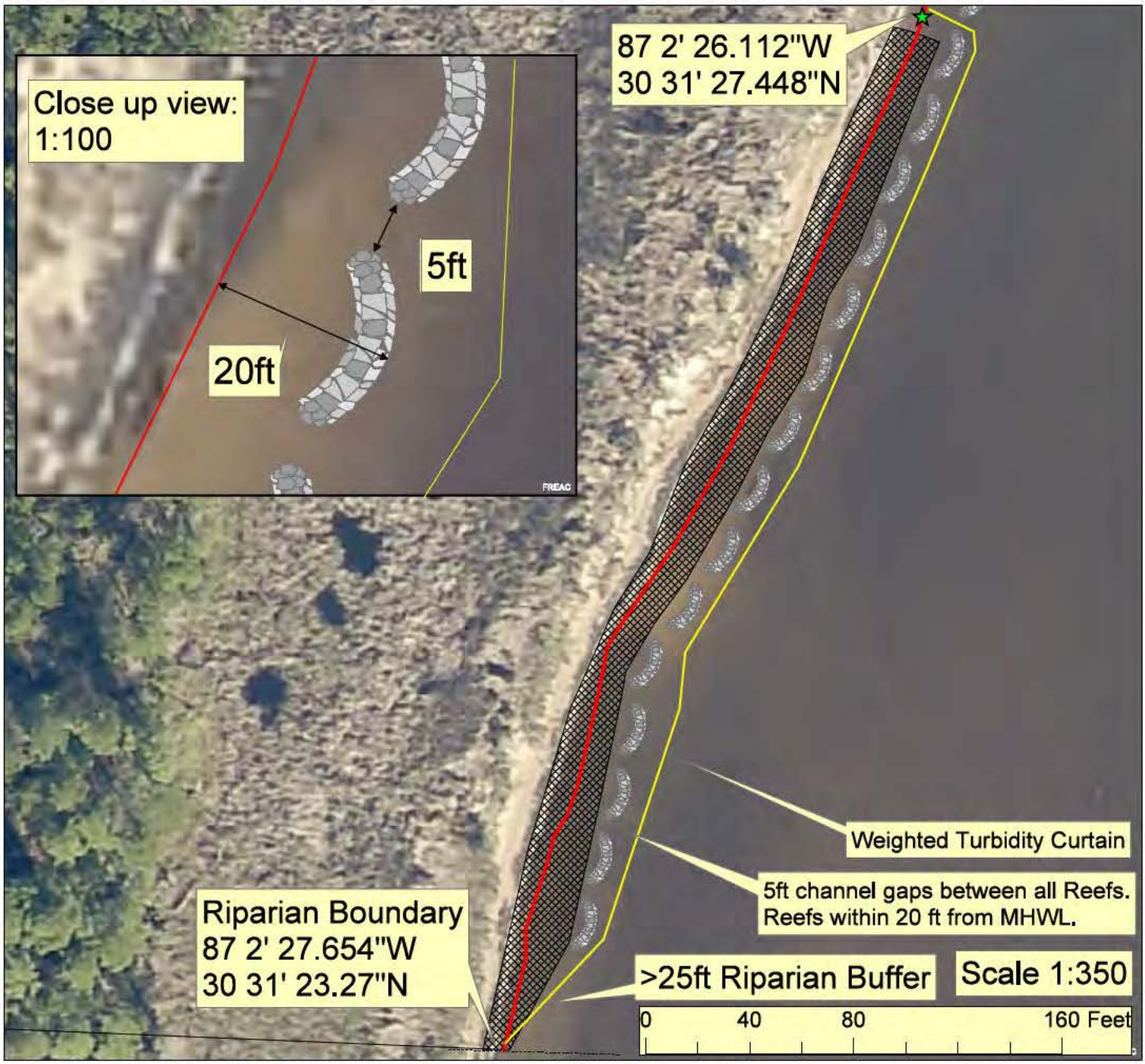


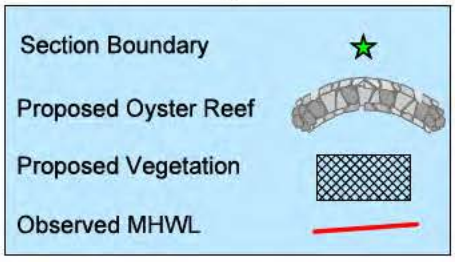
Legend

- Spartina patens
- Juncus roemerianus
- Spartina alterniflora
- Proposed Oyster Reef
- Mean High Water
- Project Location

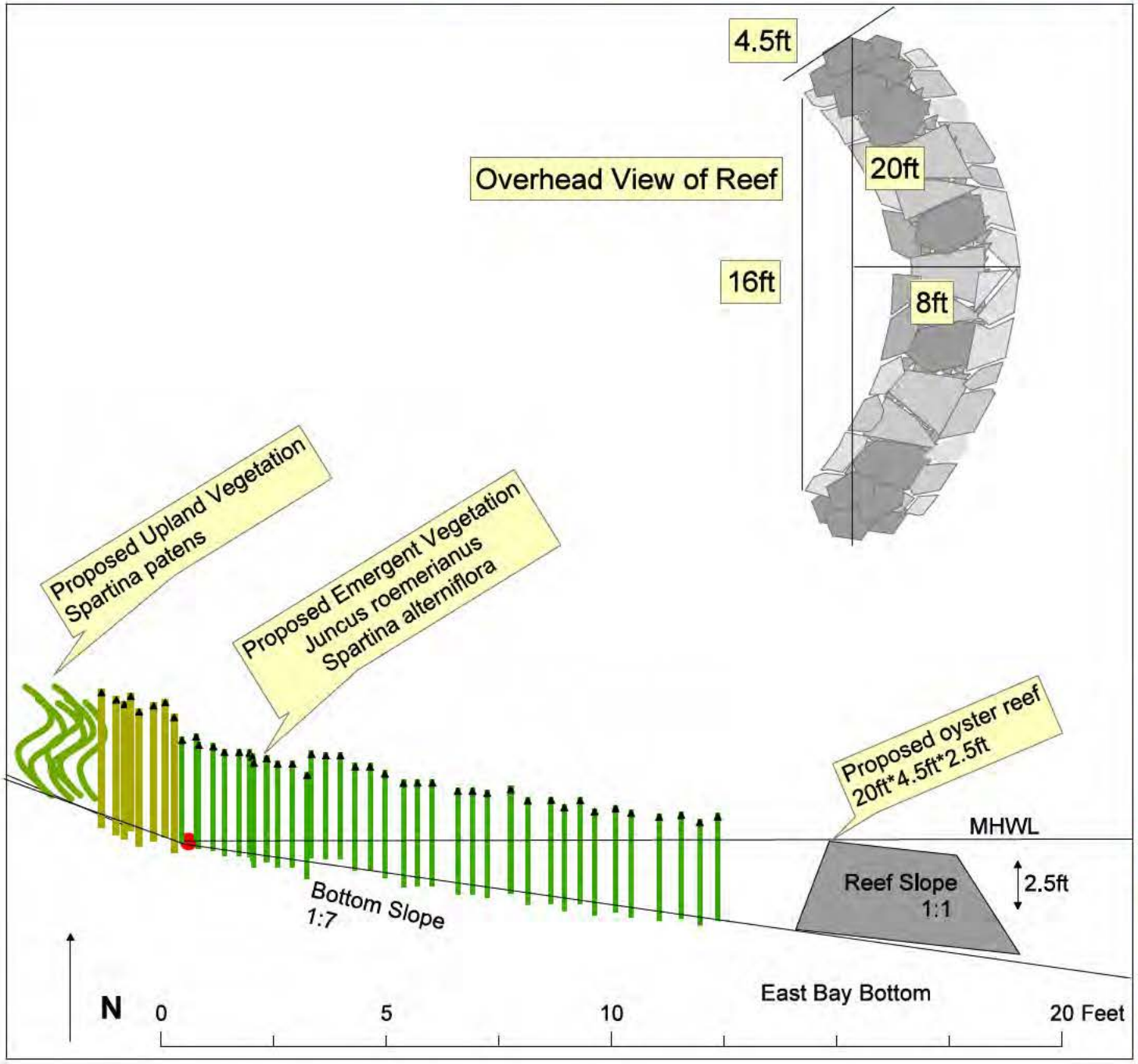
Diagram Created By:
Zach Schang
Environmental Specialist
FDEP NWFLAP
07-11-2019
Scale 1:20

Green LS - Section D





Green LS Cross Section - Section D



Legend

- Spartina patens
- Juncus roemerianus
- Spartina alterniflora
- Proposed Oyster Reef
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- Project Location

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Scale 1:20