



DEPARTMENT OF THE ARMY
CORPS OF ENGINEERS, JACKSONVILLE DISTRICT
701 SAN MARCO BOULEVARD
JACKSONVILLE, FLORIDA 32207-8915

January 10, 2020

Regulatory Division
West Permits Branch
Fort Myers Permits Section

PUBLIC NOTICE

Permit Application No. SAJ-2019-03237 (SP-KRD)

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 (DA) 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:
SC Gulf 5 LLC
14 Baywood Court
Fort Myers, Florida 33919

WATERWAY AND LOCATION: The project would affect waters of the United States, including wetlands, associated with Pelican Bay/Hurricane Pass. The project site is located on a 0.31+/- acre parcel located along Pelican Bay/Hurricane Pass on Lot #5 (Lee County Parcel ID No. 13-46-23-01-00005.0050), 973 Prescott Street, Section 13, Township 46 South, Range 23 East, in Fort Myers Beach, Lee County, Florida.

Directions to the site are as follows: From San Carlos Boulevard (FL-865) in Fort Myers Beach, continue south on San Carlos Blvd, turn right (west) on Prescott Street. The undeveloped parcel is approximately 300 feet on the north side of Prescott Street.

APPROXIMATE CENTRAL COORDINATES: Latitude 26.466025
Longitude -81.952277

PROJECT PURPOSE:

Basic: To develop a single-family residence.

Overall: To develop a single-family residence on Lot#5 (Lee County Parcel ID No. 13-46-23-01-00005.0050), 973 Prescott Street, Fort Myers Beach, Lee County, Florida

EXISTING CONDITIONS: The 0.31± acre project is located within a portion of Section 13, Township 46 South, Range 23 East, Lee County, Florida. The parcel is bordered to the east and west by mangrove swamps, to the north by Pelican Bay, and to the south by Prescott Street. This site consists entirely of mangrove swamps, an upland ridge on

the shore, and open water. The predominant vegetation associations were mapped in the field in 2019. Three vegetation associations were identified using the Florida Land Use, Cover and Forms Classification System (FLUCCS).

FLUCCS Code 426E2. Tropical Hardwoods invaded by exotics (26-50%)

This upland area is a coastal ridge and contains a mix of seaside mahoe (*Thespesia populnea*), wild olive (*Cordia boissier*), cabbage palm (*Sabal palmetto*), gumbo limbo (*Bursera simaruba*), buttonwood (*Conocarpus erectus*), red mangrove (*Rhizophora mangle*), coin vine (*Dalbergia ecastaphyllum*), and Brazilian pepper (*Schinus terebinthifolius*) in the canopy and shrub strata. Only ragweed (*Ambrosia artemisiifolia*) and sea oxeye (*Borrchia frutescens*) was present in the herbaceous stratum.

FLUCCS Code 540 - Bays and Estuaries

This area of natural open water is within Pelican Bay. Scattered shoal grass (*Halodule wrightii*) is present along the shoreline which is fringed by red mangroves.

FLUCCS Code 612E. Mangrove Swamps, Invaded by exotics (5-9%)

The property is dominated by red mangrove (*Rhizophora mangle*) with lesser quantities of black mangrove (*Avicennia germinans*), white mangrove (*Laguncularia racemosa*) and Brazilian pepper.

PROPOSED WORK: The applicant seeks authorization to construct a single-family residence on the 0.31-acre parcel including the permanent fill and loss of 0.19-acre of mangrove wetlands associated with the lot fill, driveway, and retaining wall and the construction of a 4-foot-wide by 83-foot-long private dock with an 8-foot-wide by 20-foot-long L-head, and two (2) vertical boatlifts (12-foot by 20-foot boatlift and 15-foot by 30-foot boatlift). The total encroachment of the proposed dock will be approximately 106 feet from the mean high water (MHW) line. Compensatory mitigation is proposed via the purchase of 0.17 estuarine mitigation credits from Little Pine Island Mitigation Bank.

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 proposed fill area is the minimum area practicable for a residence in this location. Mitigation will be provided by wetland mitigation credits from Little Pine Island Mitigation Bank.

COMPENSATORY MITIGATION – The applicant has offered the following compensatory mitigation plan to offset unavoidable functional loss to the aquatic environment:

Compensatory mitigation is proposed via the purchase of 0.17 estuarine mitigation credits from Little Pine Island Mitigation Bank.

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:

Name of ESA listed species potentially present which are managed by the U.S. Fish and Wildlife Service (USFWS):

- American Crocodile (*Crocodylus acutus*) – Consultation Area
- Eastern Indigo Snake (*Drymarchon corais couperi*)
- Florida bonneted bat (*Eumops floridanus*) – Consultation Area
- Florida Scrub Jay (*Aphelocoma coerulescens*) – Consultation Area
- Piping Plover (*Charadrius melodus*) – Consultation Area
- West Indian Manatee (*Trichechus manatus*) – Consultation Area/Critical Habitat
- Wood Stork (*Mycteria americana*)

Name of ESA listed species potentially present which are managed by the National Marine Fisheries Service (NMFS):

- Smalltooth sawfish (*Pristis pectinata*)
- Swimming Sea Turtles: Green sea turtle (*Chelonia mydas*), Hawksbill sea turtle (*Eremochelys imbricate*), Kemp's Ridley sea turtle (*Lepidochelys kempi*), Leatherback sea turtle (*Dermochelys coriacea*), and/or Loggerhead sea turtle (*Caretta caretta*).

Designated Critical Habitat (DCH): The project is located within designated critical habitat for the West Indian manatee and Smalltooth sawfish.

Effect determination(s), including no effect, for all known species/habitat, and basis for determination(s):

American Crocodile – In accordance with the Florida Keys Programmatic Concurrence Key (October 28, 2014), the project site is adjacent or contiguous to waters accessible to the crocodile but the project site does not contain suitable habitat for nesting accessible to the crocodile. The Corps has determined that the project will have no effect on the crocodile and no further consultation with USFWS is required.

Eastern Indigo Snake - In accordance with the USFWS South Florida Ecological Services Office's (SFESO) Eastern Indigo Snake Programmatic Effect Determination Key (1 August 2017), use of the key resulted in the following determination: A>B>No Effect. The project will be located solely in tidal wetlands which is not suitable habitat for

the Eastern Indigo snake. The Corps has determined the project will have no effect on the snake and no further consultation with USFWS is required.

Florida Bonneted Bat (FBB) – The project lies within the consultation area as designated in the USFWS-SFESO 22 October 2019 *Florida Bonneted Bat Consultation Guidelines and Florida Bat Consultation Key* (Key). Use of the Key to evaluate potential effects to the Florida bonneted bat (FBB) from the proposed project lead to the following determination: 1a>2b>13b>No Effect because the location does not support FBB roosting or foraging habitat. The Applicant provided a survey report titled *Protected Species Assessment and Florida Bonneted Bat Roost Survey, June 2019*. In this report, it was noted that per U.S. Fish and Wildlife Service (FWS) Draft Protocol for Florida Bonneted Bat Roost Surveys dated February 3, 2015, a series of meandering transects were completed across the portion of the site containing areas with potential natural roosting structures. Transects through roosting habitat were spaced approximately 20 feet apart and all trees and snags were visually inspected for evidence of cavities. Evidence of protected species was gathered through both direct observation and through observation of signs such as potential roost cavities, tracks, nests, and scat. No snags or structures were identified as containing potential Florida bonneted bat roost cavities. Therefore, the Corps has determined that the project will have no effect on the FBB and no consultation will be required with USFWS.

Florida Scrub-Jay - The project is located within the Florida scrub-jay consultation area. There is no designated critical habitat for the scrub jay listed in the federal register (52 FR 20715-20719). Persistent breeding populations of Florida scrub-jays exist only where there are scrub oaks in sufficient quantity to provide an ample winter acorn supply, cover from predators, and nest sites during the spring. The project site is an undeveloped lot dominated by mangroves which does not support scrub-jay foraging or nesting habitat. The Corps has determined that the proposed project will have no effect on Florida scrub-Jay and no further consultation with USFWS will be required.

Piping Plover - The project area is located within the Piping Plover Consultation Area, however, the Corps has determined that this project will have no effect because the project is located on an undeveloped lot dominated by mangroves, so there is no beach habitat present to support the Piping Plover no further consultation with USFWS will be required.

West Indian Manatee - The private dock portion of the project is located within Manatee consultation area and DCH. Use of the 2013 Manatee Key and 13 May 2019 Addendum resulted in a determination that the proposed project “May affect, not likely to adversely affect” the endangered West Indian manatee (A>B>C>G>H>I>N>O>P(4)>MANLAA). Per Key stipulation, no further consultation with USFWS is required. The Permittee will have to adhere to the “Standard Manatee Conditions for In-Water Work, July 2011”.

Wood Stork - The project is located within Wood Stork Colonies buffer areas, but is not within 0.47 miles of an active colony nor does the site support suitable foraging habitat. In accordance with the Corps and USFWS SFESO South Florida Programmatic Concurrence Wood Stork Key (May 18, 2010), the project keyed out A>B>NLAA (Not Likely to Adversely Affect). Per the Key and the resulting NLAA determination, no further consultation with USFWS will be required.

Smalltooth sawfish and Swimming Sea Turtles – A portion of the project is located within waters accessible to the Smalltooth sawfish and swimming sea turtles as well as designated critical habitat for the Smalltooth sawfish. The Corps has preliminarily determined the proposal may affect the Smalltooth sawfish and its designated critical habitat. However, the Corps has determined the proposal will have no effect on swimming sea turtles. The Corps will request initiation of formal consultation with the Fish and Wildlife Service/National Marine Fisheries Service pursuant to Section 7 of the Endangered Species Act by 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. The proposal would impact approximately 0.19+ acre of mangrove wetland habitat utilized by various life stages of EFH species. Our initial determination is that the proposed action would have a substantial adverse impact on EFH or Federally managed fisheries in Pelican Bay and San Carlos 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 not been verified by Corps personnel to date.

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 Fort Myers Permits Section, 1520 Royal Palm Square Blvd, Fort Myers, FL 33919 or preferably by email to Katy.R.Damico@usace.army.mil 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, Katy Damico, in writing by U.S. Mail at the Fort Myers Permits Section, 1520 Royal Palm Square Blvd, Fort Myers, Florida 33919; by electronic mail at Katy.R.Damico@usace.army.mil; or, by telephone at (813) 769-7076.

IMPACT ON NATURAL RESOURCES: Coordination with U.S. Fish and Wildlife Service (USFWS), Environmental Protection Agency (USEPA), the National Marine Fisheries Services (NMFS), 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.

SECTION: 13
TOWNSHIP: 46 S
RANGE: 23 E
LATITUDE: 26° 27' 57.3"
LONGITUDE: 81° 57' 07.7"

Lot 5 - San Carlos on the Gulf

US Army Corps of Engineers
Fort Myers Permits Section
Received by CESAJ-RD-WF
Date Received: August 29, 2019



*PERMIT USE ONLY,
NOT FOR CONSTRUCTION*

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August 29, 2019 1:42:59 p.m.
Drawing: SLUG1QUAD-LOT5.DWG

Location Map

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ENVIRONMENTAL CONSULTING
FORT MYERS 239-334-3680

Lot 5 - San Carlos on the Gulf



0 20 40
SCALE FEET

SECTION: 13
TOWNSHIP: 46 S
RANGE: 23 E

Pelican Bay



SCS 24

Prescott Street

Soil Legend

SCS 24 - Kesson fine sand
SCS 100 - Waters of the Gulf of Mexico

Notes:

1. Property boundary provided by Morris-Depew.
2. Soils information obtained from the Florida Geographic Data Library.

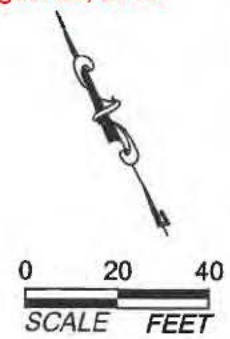
PERMIT USE ONLY, NOT FOR CONSTRUCTION

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Drawing: SLUG1PLAN-L0T5.DWG

Soils Map

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Lot 5 - San Carlos on the Gulf



SECTION: 13
TOWNSHIP: 46 S
RANGE: 23 E

FLUCCS	Description	Acreage
426E2	Tropical Hardwoods Invaded by Exotics (26-50%)	0.02 ac.
540	Bays and Estuaries	0.09 ac.
612E	Mangrove Swamps Invaded by Exotics (5-9%)	0.20 ac.
Total		0.31 ac.

- Notes:
1. Property boundary and surveyed wetland lines provided by Morris-Depew.
 2. Mapping based on photointerpretation of 2019 aerial photography and ground truthing in May 2019.
 3. Delineation of jurisdictional wetlands is preliminary and subject to field review/approval by applicable regulatory agencies.

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August 09, 2019 11:13:58 a.m.
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Vegetation Map

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SECTION: 13
TOWNSHIP: 46 S
RANGE: 23 E
LATITUDE: 26° 27' 57.3"
LONGITUDE: 81° 57' 07.7"

Lot 5 - San Carlos on the Gulf



**Project
Location**

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August 01, 2019 1:24:37 p.m.
Drawing: SLUG1QUAD-LOT5.DWG

USGS Quadrangle Map

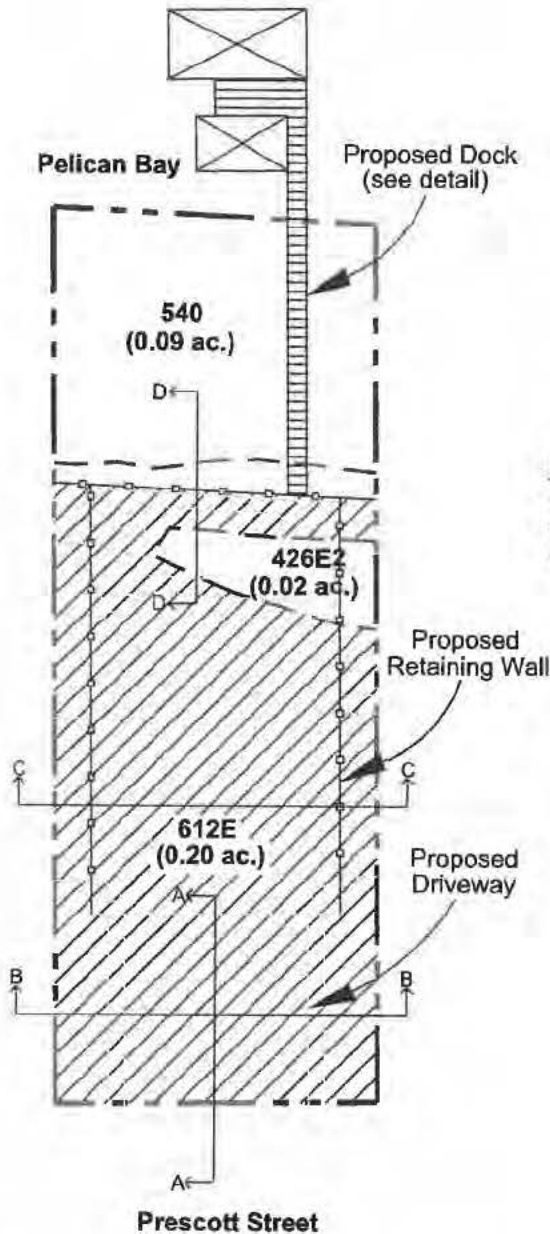
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FORT MYERS 239-334-3680

Lot 5 - San Carlos on the Gulf



0 20 40
SCALE FEET

SECTION: 13
TOWNSHIP: 46 S
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FLUCCS	Description	Acreage
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540	Bays and Estuaries	0.09 ac.
612E	Mangrove Swamps Invaded by Exotics (5-9%)	0.20 ac.
Total		0.31 ac.



Wetland Fill (0.19 ac.)

Proposed Dock Over Wetlands = 28± SF

Proposed Dock Over Surface Waters = 463± SF

Proposed Dock Total = 491± SF

Notes:

1. Property boundary, site plan, and surveyed wetland lines provided by Morris-Depew.
2. Mapping based on photointerpretation of 2019 aerial photography and ground truthing in May 2019.
3. Delineation of jurisdictional wetlands is preliminary and subject to field review/approval by applicable regulatory agencies.

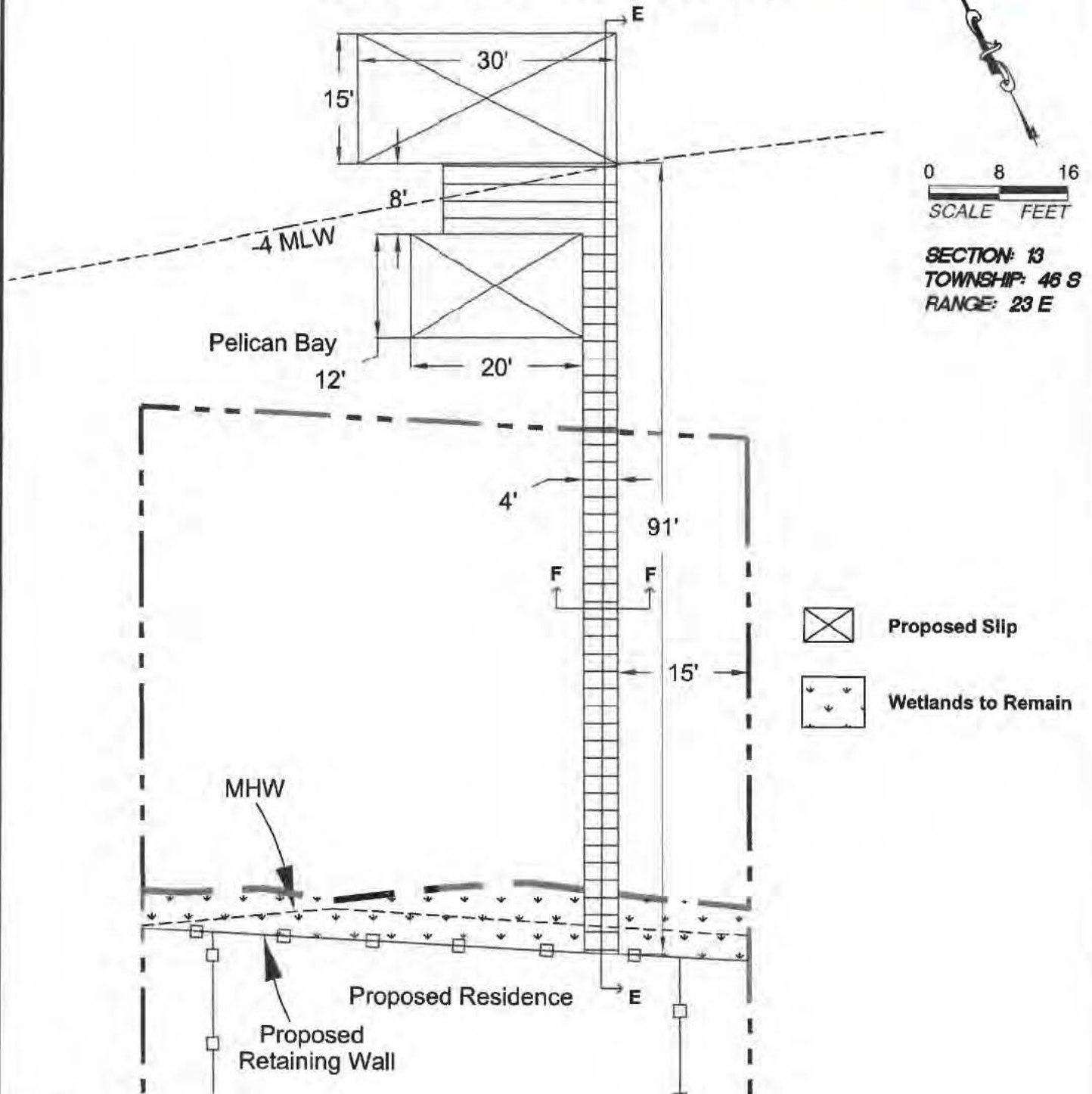
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Impact Map

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Lot 5 - San Carlos on the Gulf



Notes:

1. Property boundary, surveyed wetland lines, retaining wall location, mean high water line, and -4 MLW provided by Morris-Depew.
2. Mapping based on photointerpretation of 2019 aerial photography and ground truthing in May 2019.
3. Delineation of jurisdictional wetlands is preliminary and subject to field review/approval by applicable regulatory agencies.

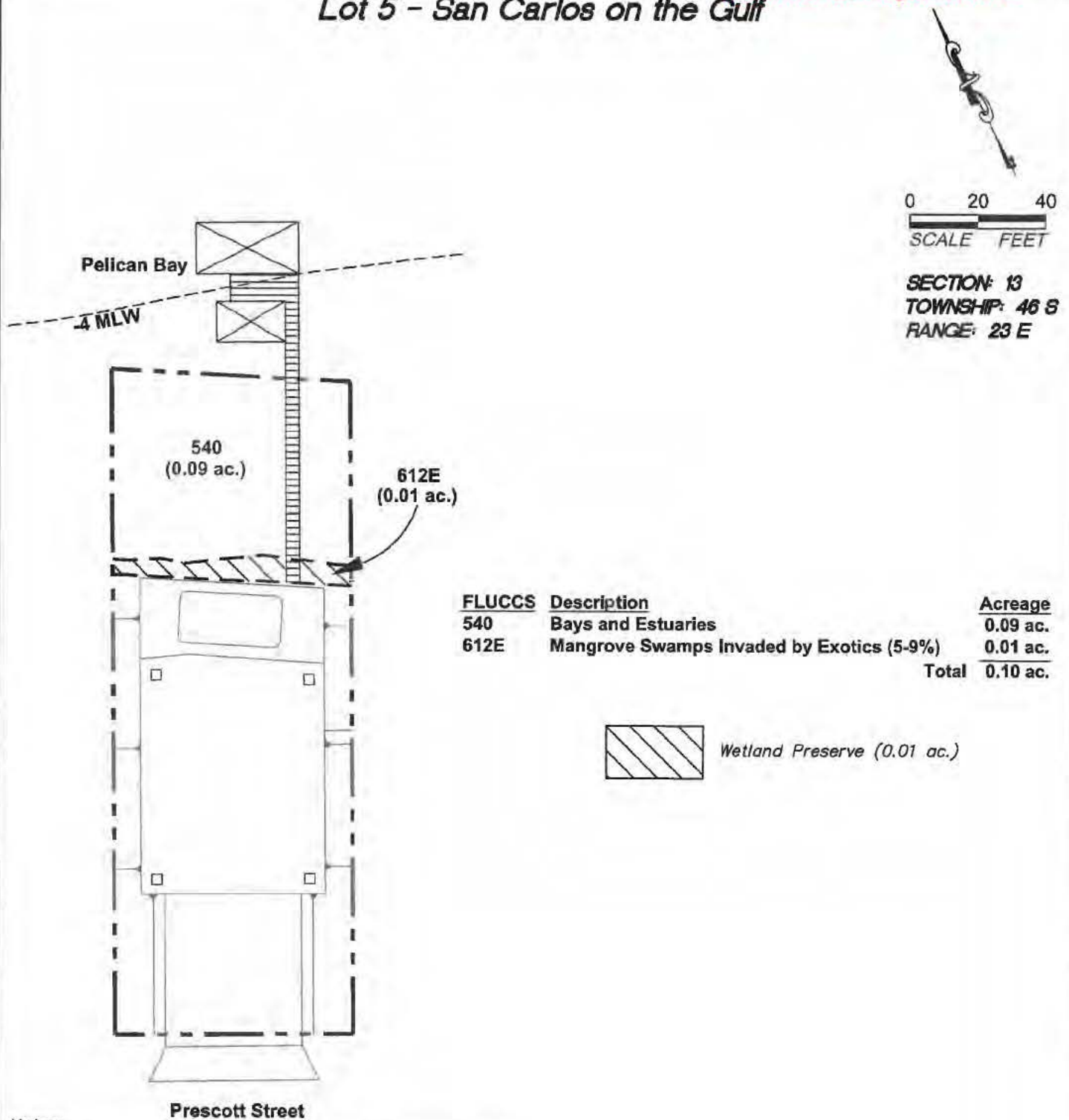
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August 09, 2019 11:13:58 a.m.
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Dock Detail

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Lot 5 - San Carlos on the Gulf



Notes:

1. Property boundary, site plan, and -4 MLW provided by Morris-Depew.
2. Mapping based on photointerpretation of 2019 aerial photography and ground truthing in May 2019.
3. Delineation of jurisdictional wetlands is preliminary and subject to field review/approval by applicable regulatory agencies.

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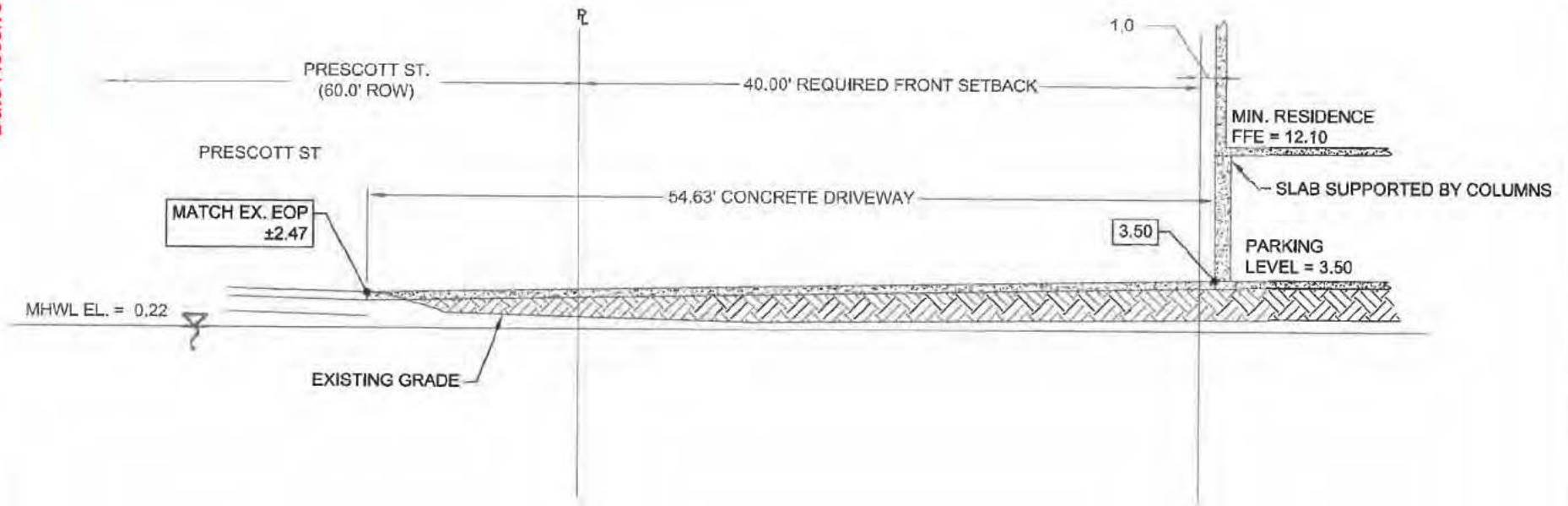
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Proposed Conditions Map

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Lot 5 - San Carlos on the Gulf

US Army Corps of Engineers
Fort Myers Permits Section
Received by: CEC/AR/WF
Date Received: August 29, 2019



Scale 1" = 10'



Proposed Wetland Fill

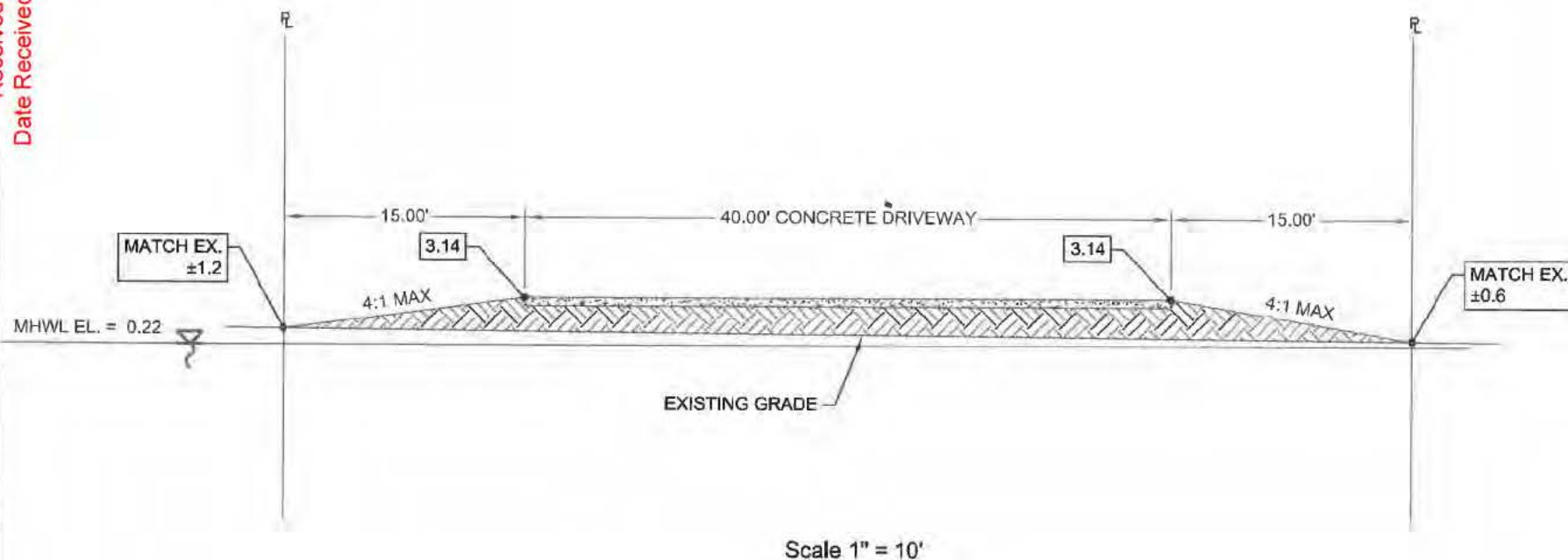
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Cross Section A-A

DEXBENDER
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FORT MYERS 239-334-3680

Lot 5 - San Carlos on the Gulf



Proposed Wetland Fill

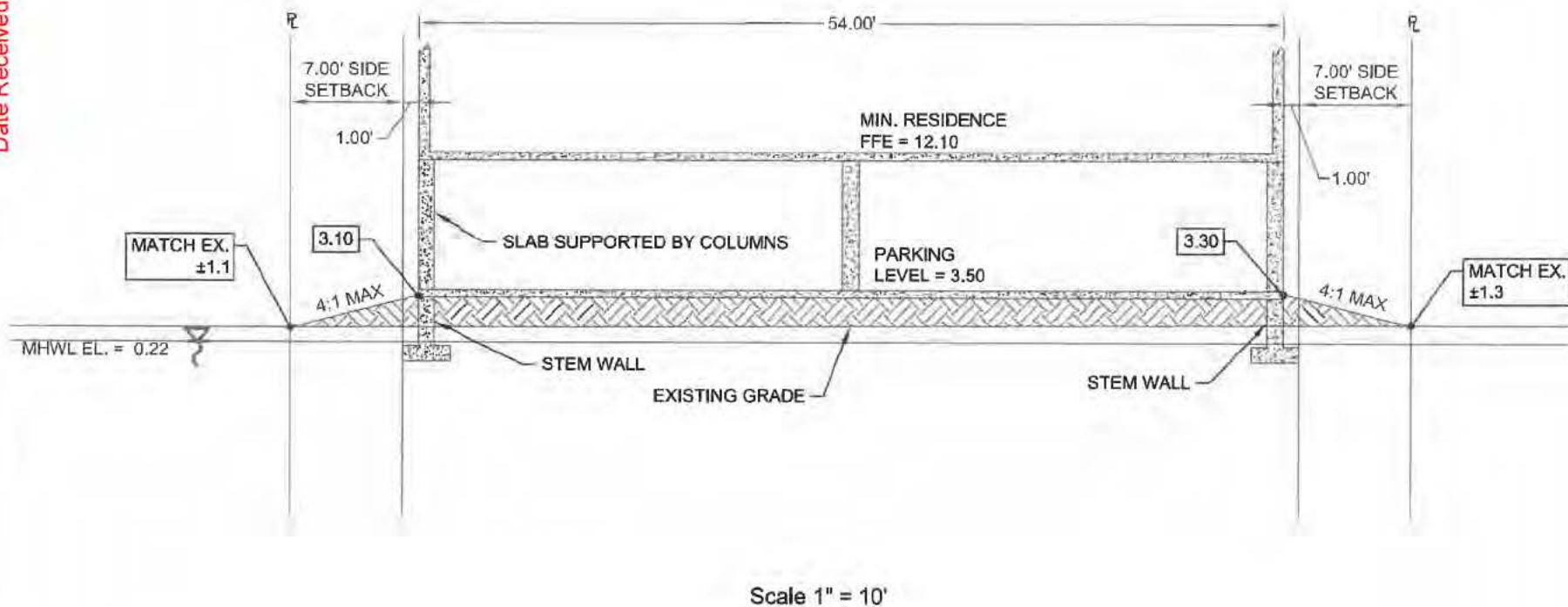
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Cross Section B-B

DEXBENDER
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FORT MYERS 239-334-3680

Lot 5 - San Carlos on the Gulf



Proposed Wetland Fill

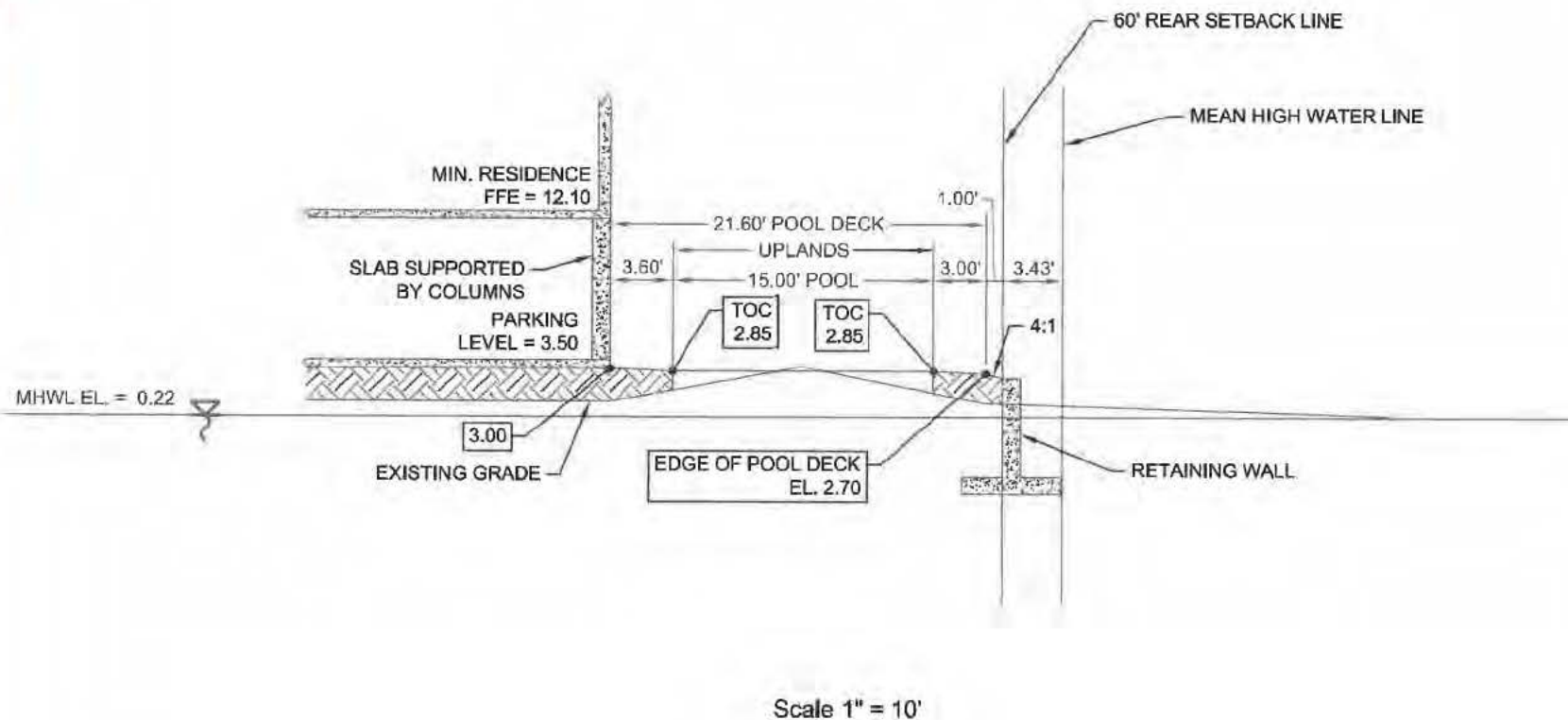
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Cross Section C-C

DEXBENDER
ENVIRONMENTAL CONSULTING
FORT MYERS 239-334-3680

Lot 5 - San Carlos on the Gulf



Proposed Wetland Fill

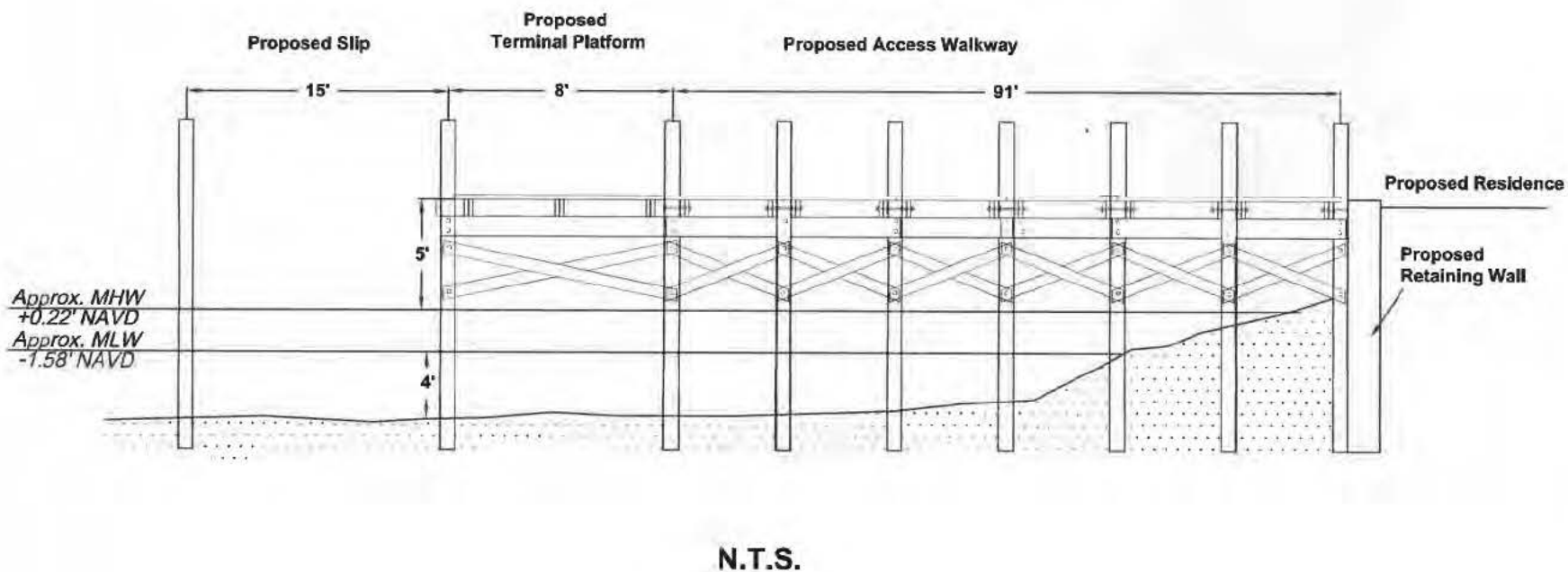
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Cross Section D-D

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ENVIRONMENTAL CONSULTING
FORT MYERS 239-334-3680

Lot 5 - San Carlos on the Gulf



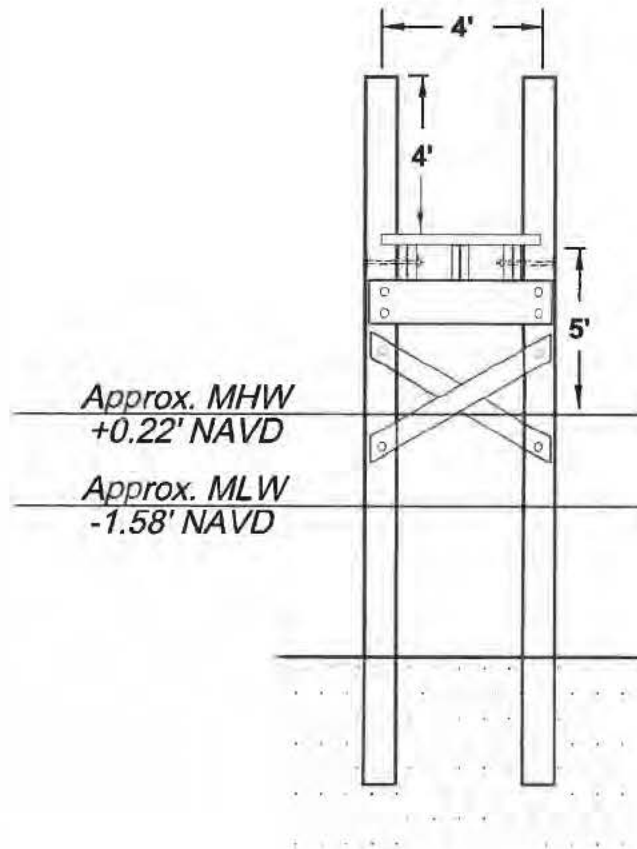
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Section E-E

DEXBENDER
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Lot 5 - San Carlos on the Gulf



N.T.S.

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Section F-F

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FORT MYERS 239-334-3680

**San Carlos Gulf Lot 5
Little Pine Island Functional Assessment**

Proposed Wetland Impacts

Polygon #	FLUCCS	Wetland Habitat	Food Chain	Native Plants	Biological Integrity	Landscape Heterogeneity	Aquatic Refugia	Hydrology	Water Quality	Soils	WFCI	Acres	Credits
FILL(PRE)	612	0.8	0.9	0.9	0.9	0.8	0.9	0.9	0.8	1.0	0.88	0.19	0.17
FILL(POST)	140	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.00	0.19	0.00
TOTAL												0.19	0.17

Forested Saltwater	
Credits Required	0.17
Credits Available Onsite	0.00
Additional Forested Credits Required	0.17

Herbaceous Saltwater	
Credits Required	0.00
Credits Available Onsite	0
Additional Herbaceous Credits Required	0.00

Total Credits Required	0.17
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Project:	SC Gulf 5	Date:	Evaluator:
Wetland ID:	WET-1	FLUCCS Code:	612
Habitat for wetland dependent species: Wetland habitat is entirely saltwater, therefore limited utilization for some wetland dependent species, but anticipated to be utilized by wetland bird species. Surrounded by mangrove swamps with development to the west and south.			
			Score: 0.8
Support for food chains: Several fish species likely present,			
			Score: 0.9
Support for native plant populations: Area dominated by 10-20 feet tall mangroves. No snags.			
			Score: 0.9
Maintenance of biological integrity: Moderate density/diversity of macroinvertebrates observed. Habitat present suitable to support macroinvertebrates.			
			Score: 0.9
Provisions of landscape heterogeneity: Wetland is dominated by mangroves in all strata. No nearby upland areas for food sources. Residential development to the south and west.			
			Score: 0.8
Access to aquatic refugia: Pelican Bay to north. Residential development on adjacent lands.			
			Score: 0.9
Maintenance of natural hydrologic regimes: This area is partially isolated due to residential development on adjacent lands.			
			Score: 0.9
Maintenance of water quality: Nearby residential neighborhoods likely to produce runoff into area. Pelican Bay to north provides flushing.			
			Score: 0.8
Support of soil processes: No apparent disturbance to natural soil conditions.			
			Score: 1

Wetland Score:	0.88
Wetland Acreage:	0.19
Credits Required:	0.17