



DEPARTMENT OF THE ARMY
CORPS OF ENGINEERS, JACKSONVILLE DISTRICT
FORT MYERS REGULATORY OFFICE
1520 ROYAL PALM SQUARE BLVD., SUITE 310
FORT MYERS, FLORIDA 33908

October 2, 2020

Regulatory Division
West Permits Branch
Fort Myers Permits Section

PUBLIC NOTICE

Permit Application No. SAJ-2020-02353 (SP-SJF)

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: Anchor Point Properties, LLC
c/o Mr. Daniel Peregrin
P.O. Box 1803
LaBelle, Florida 33975

WATERWAY AND LOCATION: The project would affect waters of the United States associated with the Caloosahatchee River. The project site is located at 295 Old County Road 78 South, in Section 32, Township 42S, Range 29E, Hendry County, LaBelle, Florida 33975 (Parcel ID: 1-29-42-32-A00-0071.0100).

Directions to the site are as follows: I-75 N, Merge onto FL-80E via exit 141 toward LaBelle/Eden Winery, Turn left onto N Bridge St/FL 29, Turn Left onto Buser Ave, Turn left onto N Bridge St, Turn right onto County Road 78/FL-78, the site is on the left.

APPROXIMATE CENTRAL COORDINATES: Latitude 26.77055°
Longitude -81.439846°

PROJECT PURPOSE:

Basic: Dock re-configuration, dredging, and shoreline stabilization.

Overall: Dock re-configuration, dredging, and shoreline stabilization, at a commercial business, in LaBelle, Florida.

EXISTING CONDITIONS: The project site contains a 12-unit motel with an existing docking facility with 7 slips and a boat basin. The existing dock requires renovation as a portion of the dock within the boat basin has failed. The total over water area of the existing docks is 1,615 square feet. The applicant conducted a benthic survey on March 18, 2020, no seagrasses were observed in the area of the proposed structures, riprap placement and dredge footprint.

PROPOSED WORK: The applicant seeks authorization for: 1) the removal of the existing dock (1,615 square feet, 7 slips); 2) construction of a new dock (5,776 square feet, 18 slips) including installation of eighteen (18) mooring piles, five (5) boatlifts, and a 50 foot by 40 foot covered, overwater seating area; 3) maintenance dredging of 424 cubic yards of material to -5 feet as measured from the Ordinary High Water (OHWL); and 4) shoreline stabilization including 200 linear feet of riprap (150 cubic yards) and 106 linear feet of seawall. All work is to be completed from a barge and turbidity curtains would be used during all in-water construction activities.

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 changes to the docking facility are the minimum required to achieve the necessary mooring capability. Best Management practices, including the use of turbidity curtains, would be utilized during in-water construction activities. Standard Manatee Construction Conditions for In-Water Work will be followed throughout construction, as well as Sea turtle and Smalltooth Sawfish construction conditions.

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

There are no proposed impacts to submerged resources and therefore no mitigation is proposed.

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:

West Indian Manatee and designated critical habitat: The Corps has determined the project “may affect” the West Indian manatee (*Trichechus manatus*) or its designated critical habitat. Since the proposal by the applicant is for in-water construction, potential impacts to the endangered manatee were evaluated using *The Corps of Engineers, Jacksonville District, and the State of Florida Effect Determination Key for the Manatee in Florida (Manatee Key)*, dated April 2013. Use of the Manatee Key resulted in the following sequential determination: A>B>C>G>H>I>J>L>M> “May affect”. The Corps will request Fish and Wildlife Service concurrence under separate cover pursuant to Section 7 of the Endangered Species Act.

Smalltooth sawfish and sea turtles: The Corps evaluated the proposed work utilizing NMFS's Jacksonville District's Programmatic Biological Opinion (JAXBO) dated 20 November 2017. The JAXBO analyzes the effects from 10 categories of minor in-water activities occurring in Florida and the U.S. Caribbean on sea turtles (loggerhead, leatherback, Kemp's ridley, hawksbill, and green); smalltooth sawfish; Nassau grouper; scalloped hammerhead shark, Johnson's seagrass; sturgeon (Gulf, shortnose, and Atlantic); corals (elkhorn, staghorn, boulder star, mountainous star, lobed star, rough cactus, and pillar); whales (North Atlantic right whale, sei, blue, fin, and sperm); and designated critical habitat for Johnson's seagrass; smalltooth sawfish; sturgeon (Gulf and Atlantic); sea turtles (green, hawksbill, leatherback, loggerhead); North Atlantic right whale; and elkhorn and staghorn corals in accordance with Section 7 of the Endangered Species Act. Based on past permitting practices of the Corps and review of consultations with similar in-water construction activities, Project Design Criteria (PDCs) were identified in the JAXBO that typically have been applied to permitted in-water construction activities. These PDCs ensure effects of in-water construction activities are minimal in nature and do not result in adverse effects to listed species or to essential features of designated CH. For this verification, the Corps conducted a project specific review to ensure that all of the PDCs were met. In accordance with the project-specific review process established in the JAXBO, a PDC checklist, certification that the activity meets the applicable PDCs, and supporting documentation for the proposed activity were emailed to nmfs.ser.statewideprogrammatic@noaa.gov and jaxbo@usace.army.mil on October 2, 2020 for Activity 1: Shoreline Stabilization, Activity 2: Pile Supported and Activity 3: Minor Dredging. Therefore, the Jacksonville District satisfied the project-specific review requirements stipulated in the JAXBO and satisfied its obligation under the ESA for the above-listed species and critical habitats within the NMFS purview.

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 0.09 acres of shallow water habitat utilized by various life stages of Penaeid Shrimp Complex, Red Drum (*Sciaenops ocellatus*), Reef fish (various spp.), Migratory/Pelagic fish (various spp.), Snapper/Grouper Complex.

Our initial determination is that the proposed action would not have a substantial adverse impact on EFH or Federally managed fisheries in the Caloosahatchee River. 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.

NAVIGATION: Based on the Florida State Plane coordinates provided by the applicant, the waterward edge of the proposed structure is 62.5 feet away from the near bottom edge of the Okeechobee Waterway/Caloosahatchee River (C-43).

SECTION 408: The applicant will require permission under Section 14 of the Rivers and Harbors Act (33 USC 408) because the activity, in whole or in part, would alter, occupy, or use a Corps Civil Works project.

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 Fort Myers Permits Section, 1520 Royal Palm Square Blvd., Suite 310, Fort Myers, FL 33919 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, Stephen J. Fleming, in writing at the Fort Myers Permits Section, 1520 Royal Palm Square Blvd. Suite 310, Fort Myers, FL 33919; by electronic mail at Stephen.J.Fleming@usace.army.mil; by facsimile transmission at (239) 334-0797; or, by telephone at (239) 334-1975.

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.

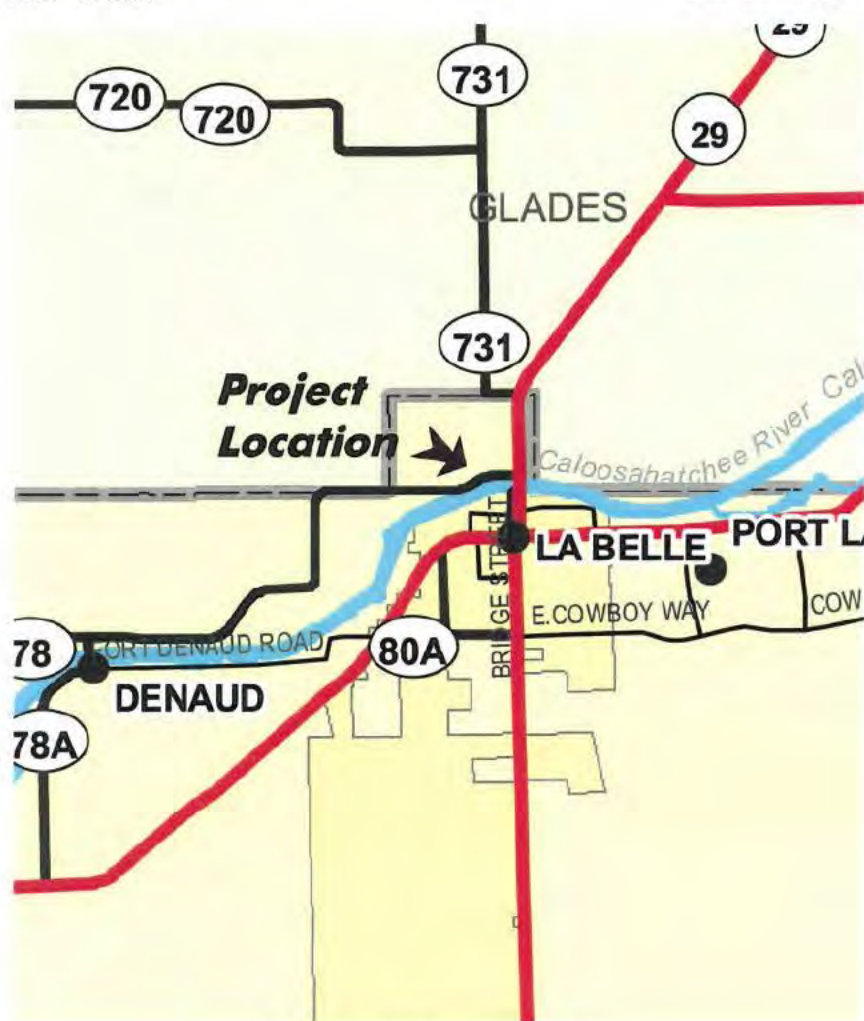
COASTAL ZONE MANAGEMENT CONSISTENCY: In Florida, the State approval constitutes compliance with the approved Coastal Zone Management Plan. In Puerto Rico, a Coastal Zone Management Consistency Concurrence is required from the Puerto Rico Planning Board. In the Virgin Islands, the Department of Planning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

SECTION: 1
TOWNSHIP: 29 South
RANGE: 42 East

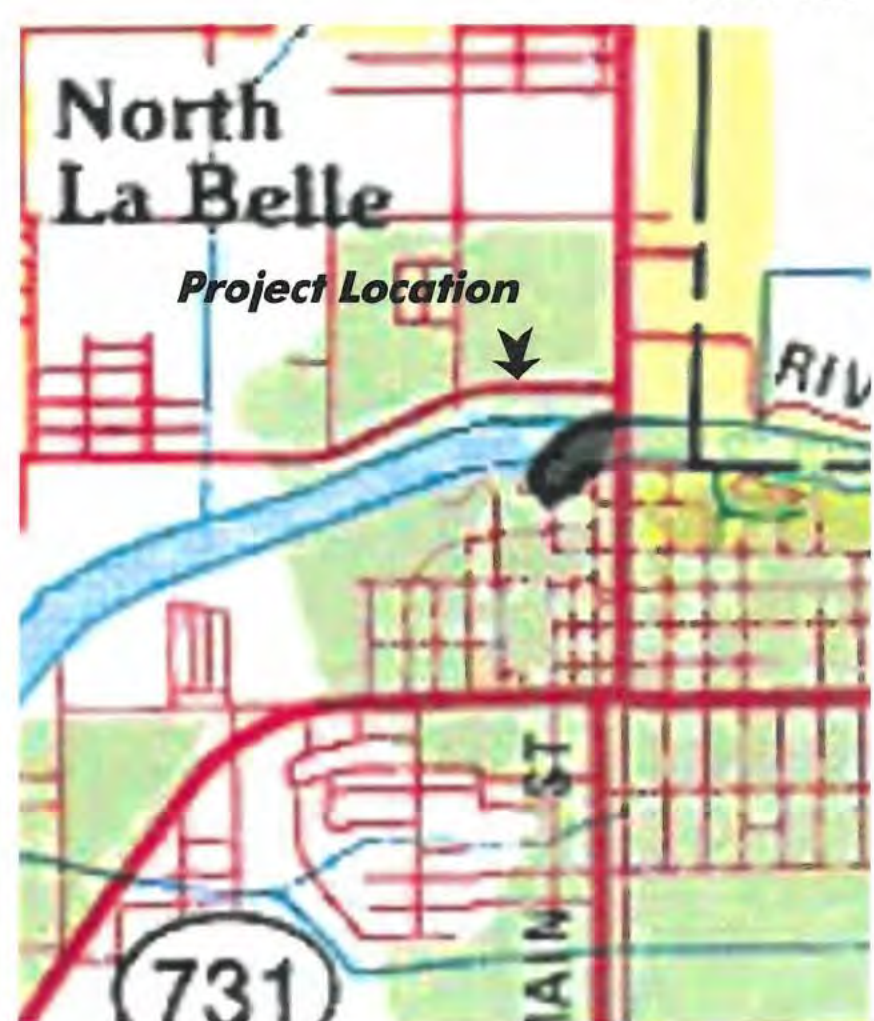
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Vicinity Map

SCALE: 1" = 2 Miles



Location Map

SCALE: 1" = 2000'

PERMIT PLANS, NOT FOR CONSTRUCTION

August 12, 2020 9:17:17 a.m.
Drawing: RIVERSEGE1MASTER.DWG



1938 Hill Avenue, Fort Myers, Florida 33901
Office: 239-334-6870 Fax: 239-334-7810
MARINE and ENVIRONMENTAL CONSULTANTS

8-12-20

IMF

Rivers Edge Motel

SHEET

SECTION: 1
TOWNSHIP: 29 South
RANGE: 42 East

Labins Aerial 2017

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Overall Site Layout

SCALE: 1" = 500'

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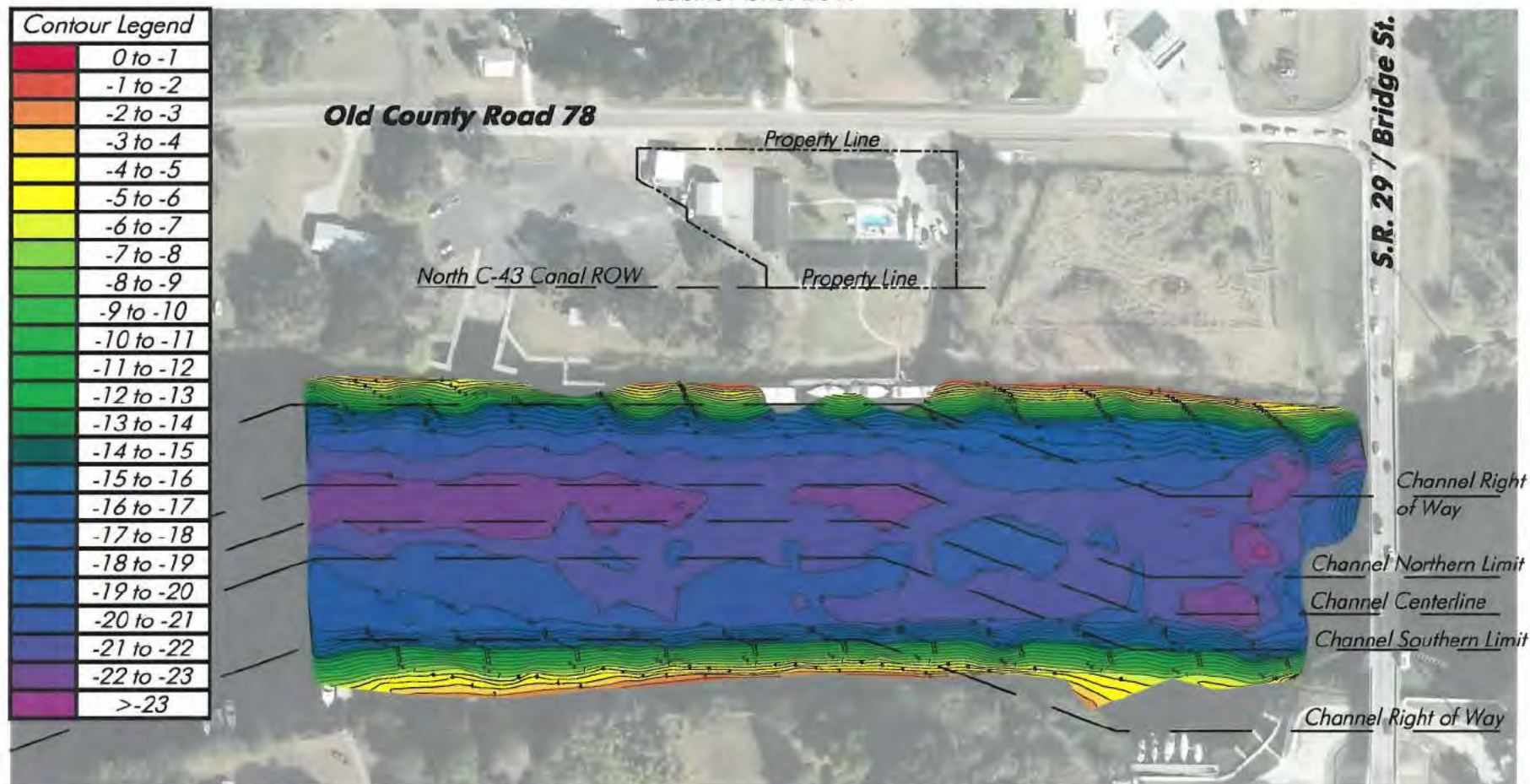
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SECTION: 1
TOWNSHIP: 29 South
RANGE: 42 East

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SCALE FEET

Labins Aerial 2017



Bathymetric Survey

SCALE: 1" = 200'

Notes: Property Lines per Hull Land Surveying, Inc. survey completed on 9-27-16 reference file No. 20152946. Bathymetric Survey completed by HWA on 3-18-20, depths reference NAVD88. Channel limits determined from the centerline of the waterway based on water depths.

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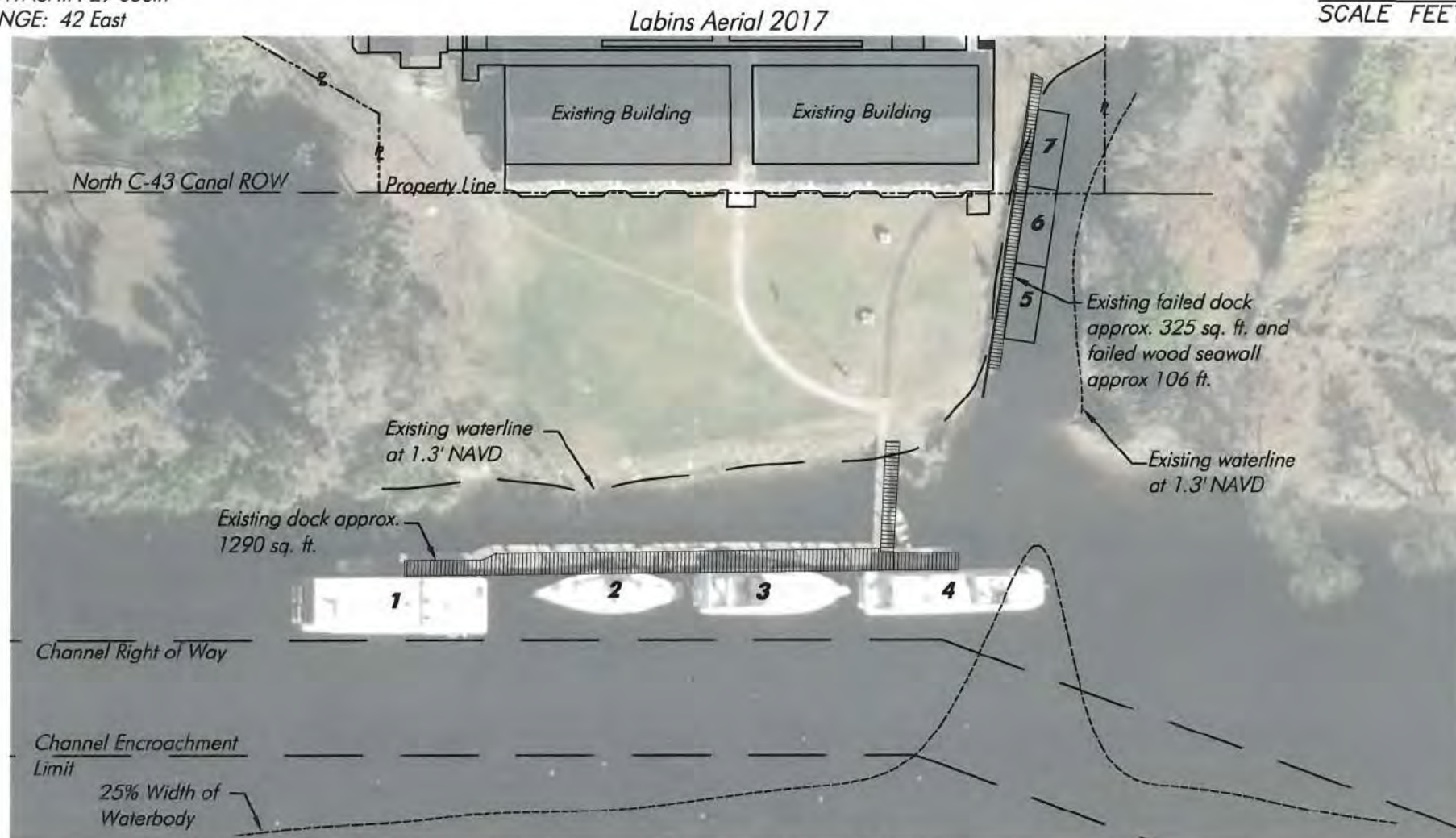
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SECTION: 1
TOWNSHIP: 29 South
RANGE: 42 East

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SCALE FEET



Existing Site Plan

SCALE: 1" = 50'

Notes: Property Lines per Hull Land Surveying, Inc. survey completed on 9-27-16 reference file No. 20152946.

Elevations reference NAVD88 datum. OHWL = 1.9' NAVD.

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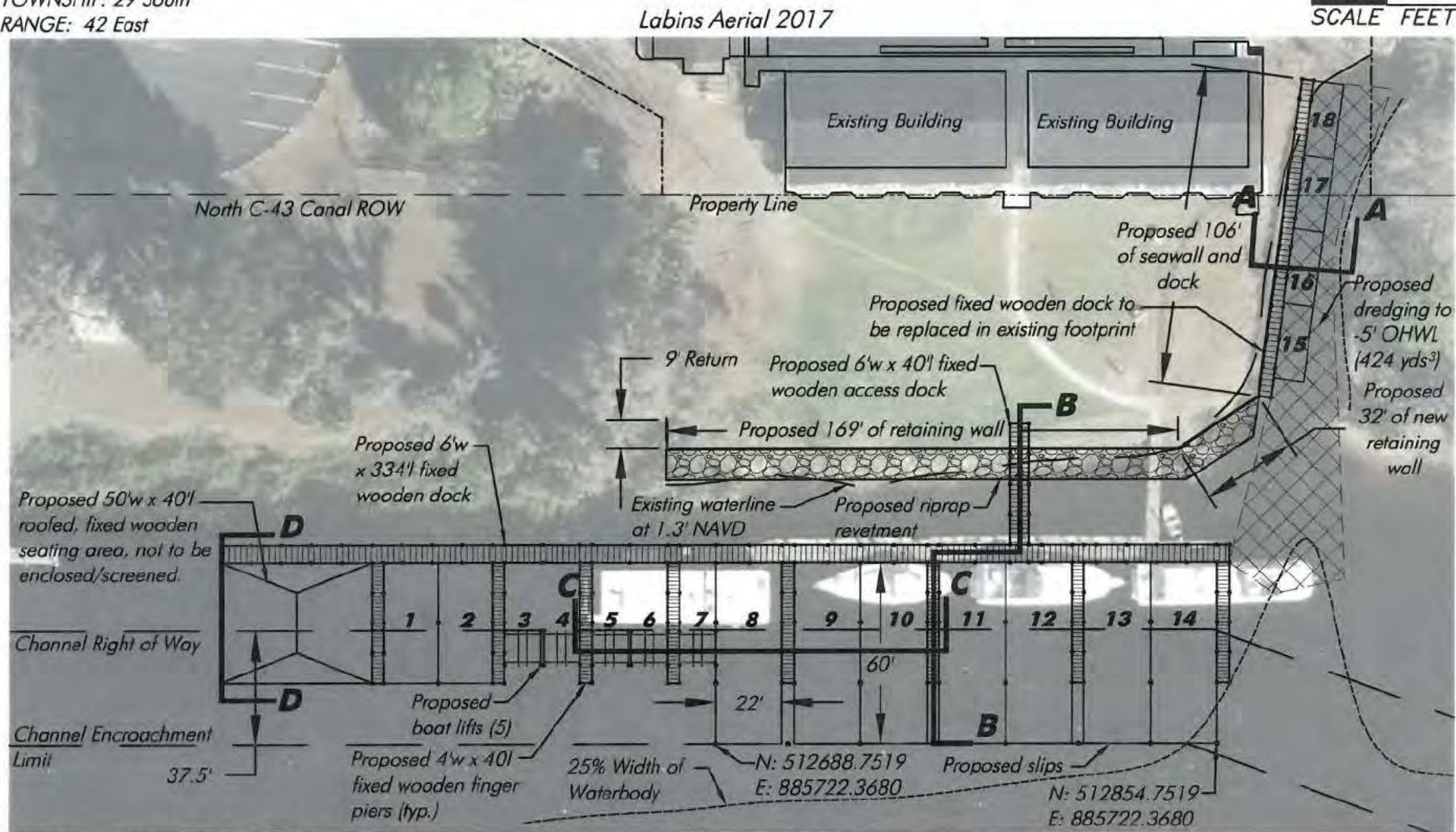
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SECTION: 1
TOWNSHIP: 29 South
RANGE: 42 East

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SCALE FEET



Notes: Property Lines per Hull Land Surveying, Inc. survey completed on 9-27-16 reference file No. 20152946. Elevations reference NAVD88 datum. OHWL = 1.9' NAVD.

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Proposed Site Plan

SCALE: 1" = 50'

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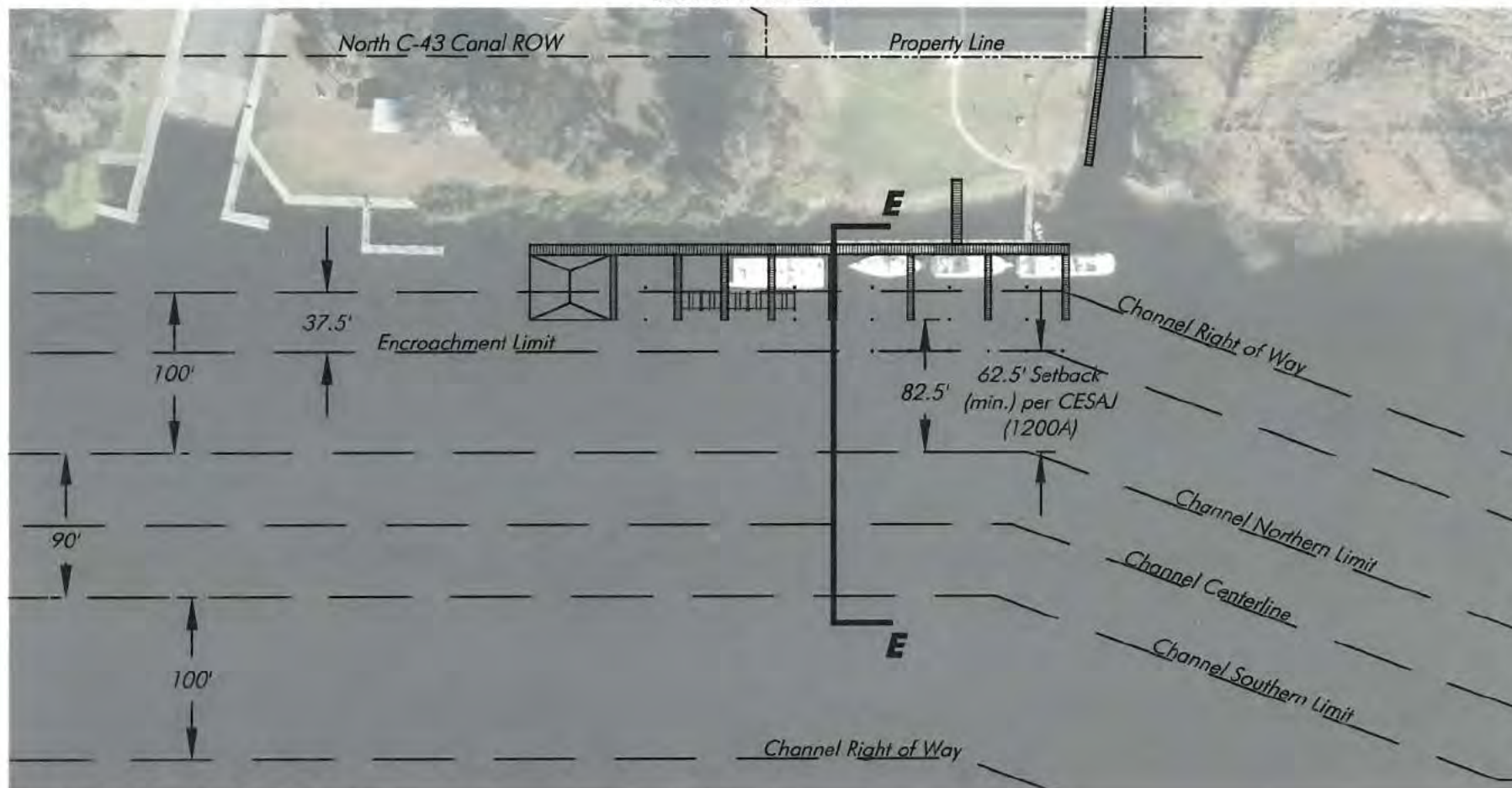
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SECTION: 1
TOWNSHIP: 29 South
RANGE: 42 East

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SCALE FEET

Labins Aerial 2017



Notes: Property Lines per Hull Land Surveying, Inc. survey completed on 9-27-16 reference file No. 20152946. Bathymetric Survey completed by HWA on 3-18-20, depths reference NAVD88. Channel limits determined from the centerline of the waterway based on water depths.

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Channel Encroachment

SCALE: 1" = 100'

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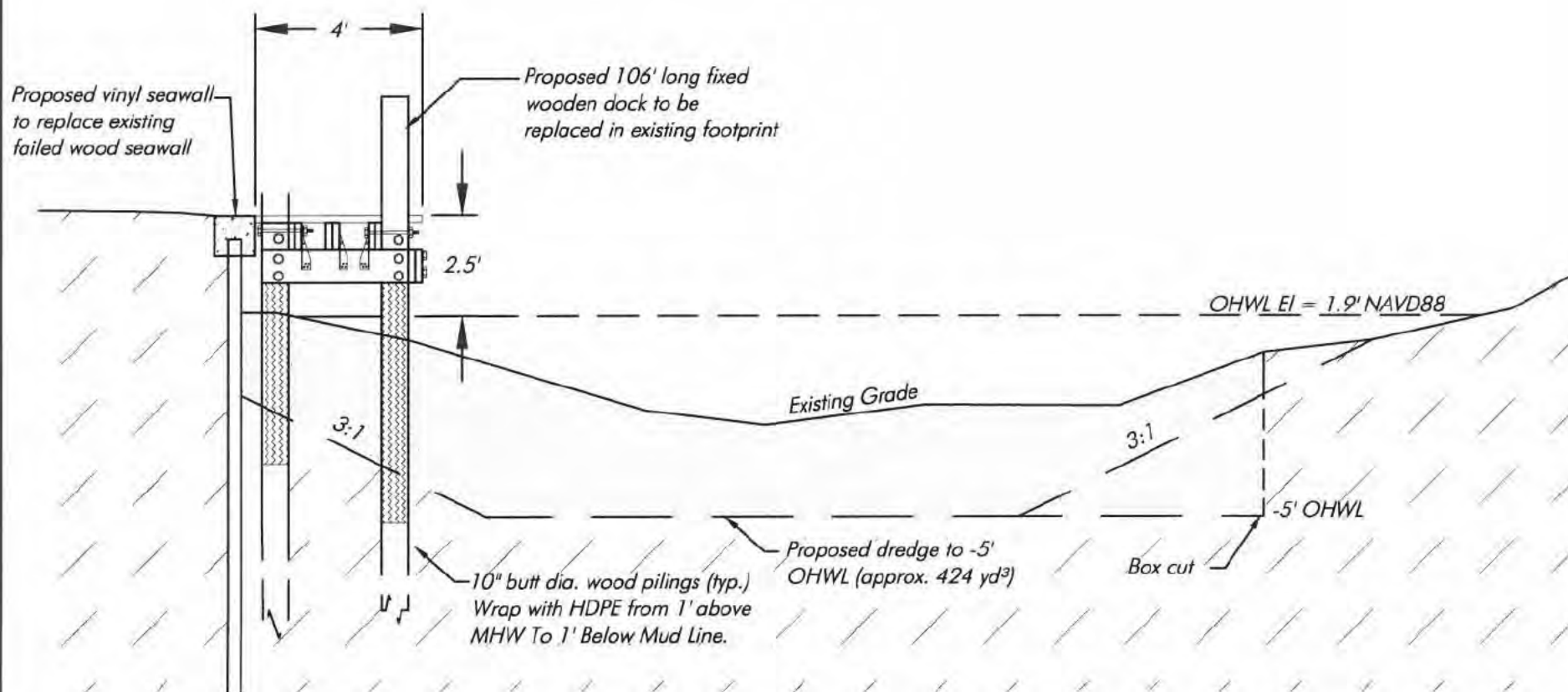
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SECTION: 1
TOWNSHIP: 29 South
RANGE: 42 East

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SCALE FEET



Cross Section A-A

SCALE: 1" = 4'

Notes: Elevations reference NAVD88 datum.

OHWL = 1.9' NAVD88.

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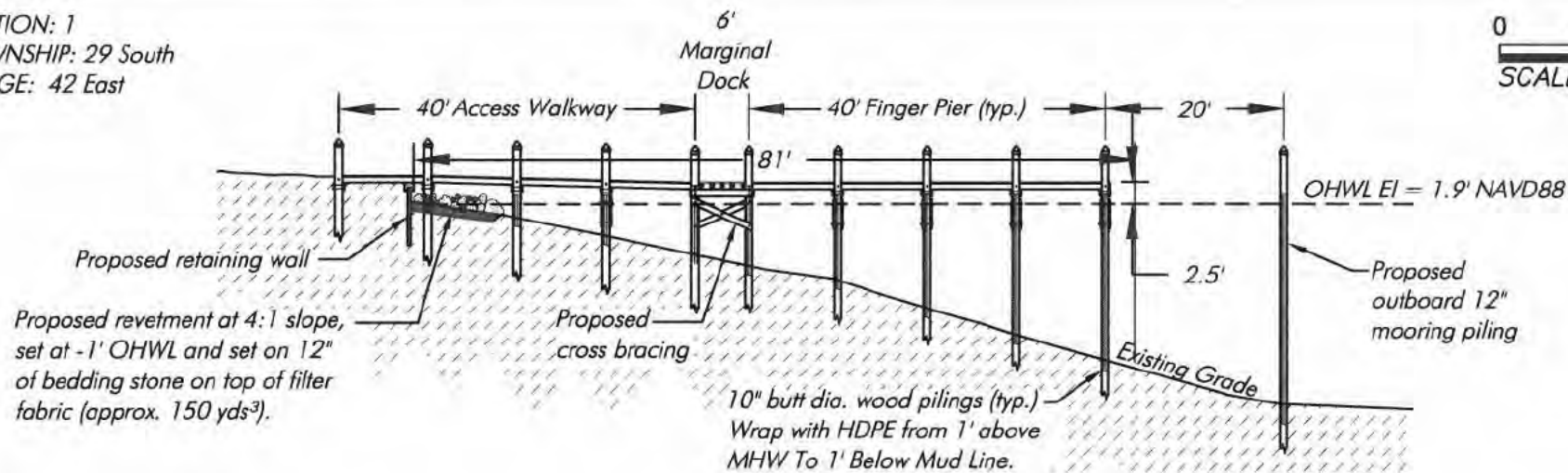
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SHEET

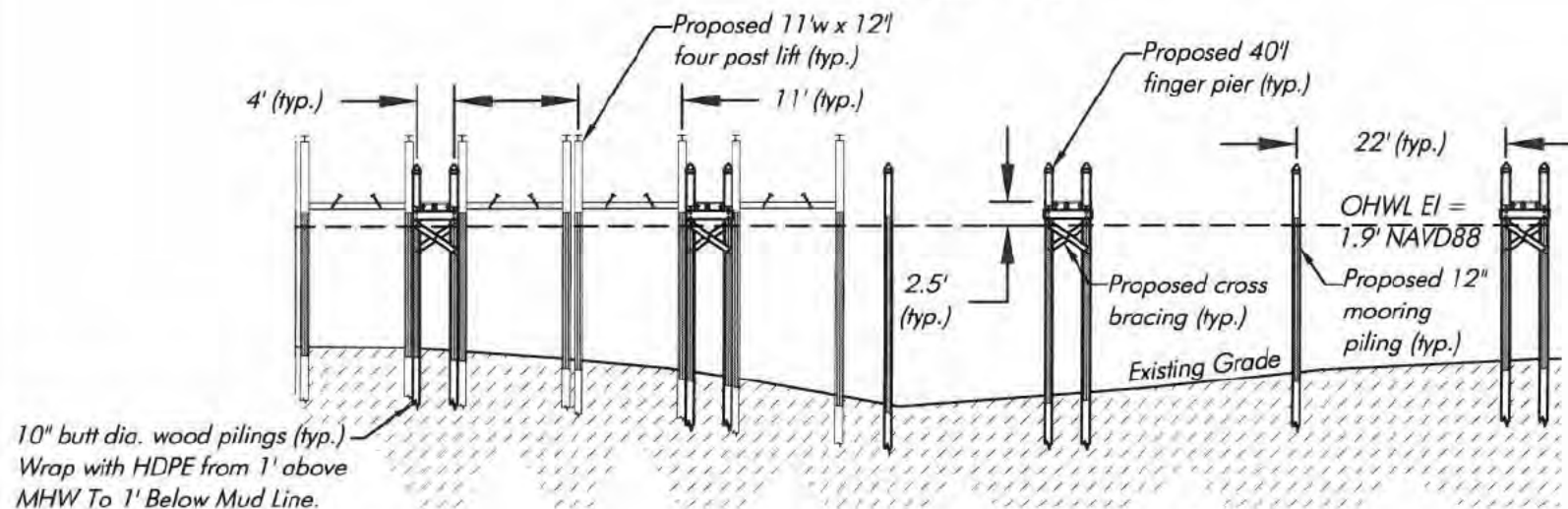
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TOWNSHIP: 29 South
RANGE: 42 East

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SCALE FEET



Cross Section B-B

SCALE: 1" = 20'



Cross Section C-C

SCALE: 1" = 20'

Notes: Elevations reference NAVD88 datum.
OHWL = 1.9' NAVD88.

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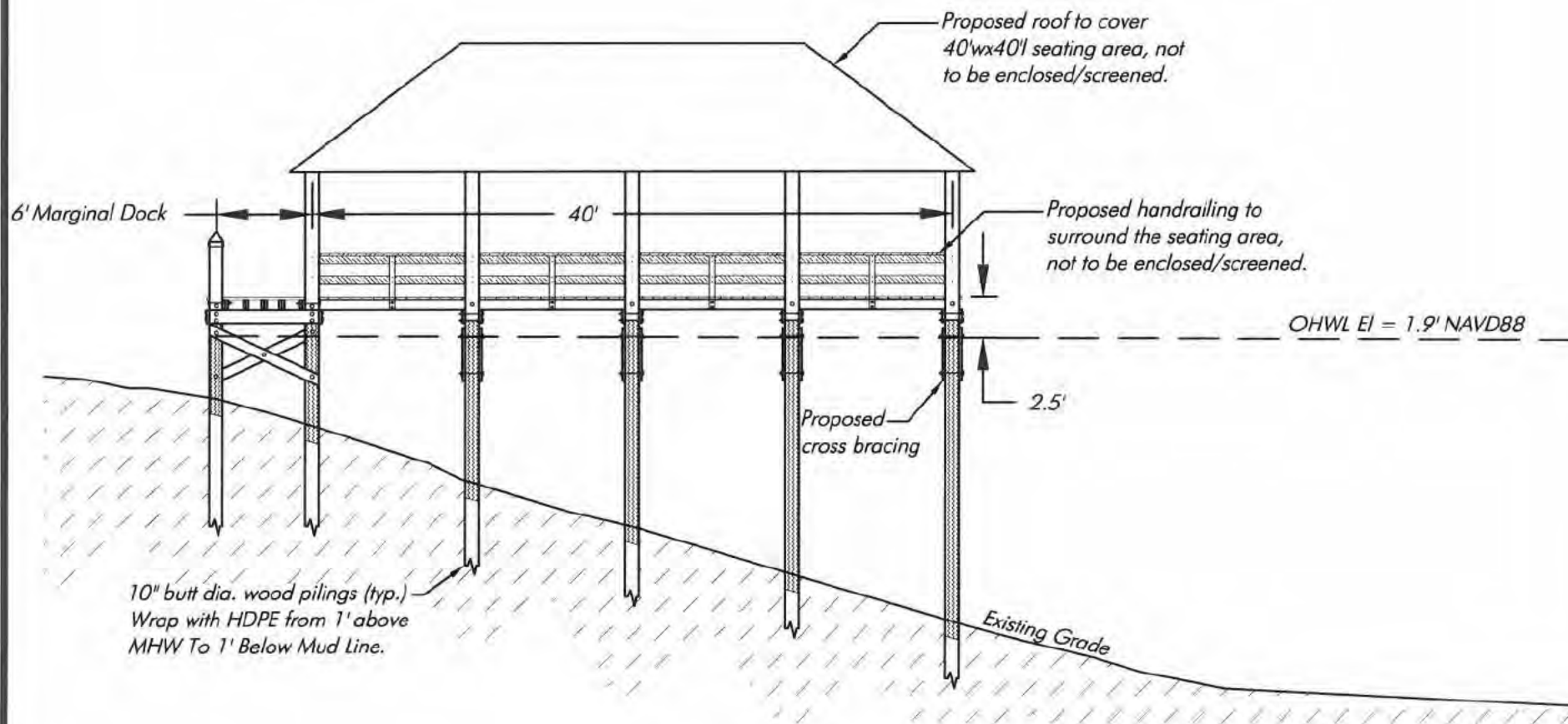
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SECTION: 1
TOWNSHIP: 29 South
RANGE: 42 East

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SCALE FEET



Section View D-D

SCALE: 1" = 10'

Notes: Elevations reference NAVD88 datum.

OHWL = 1.9' NAVD88.

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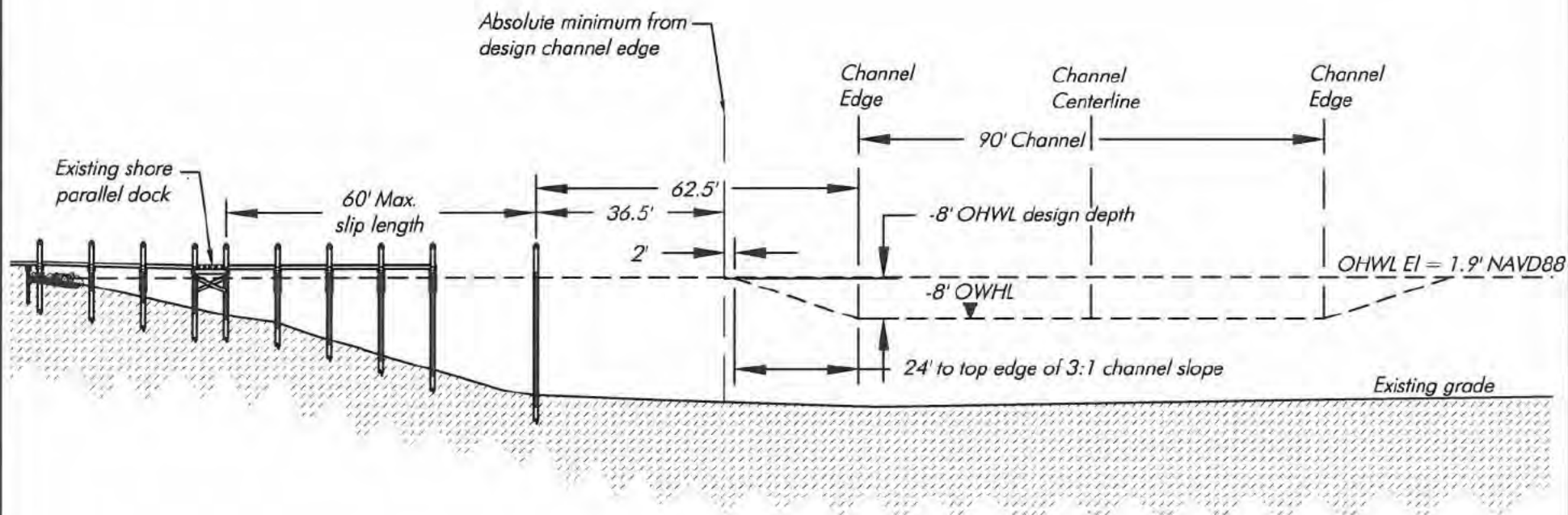
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SECTION: 1
TOWNSHIP: 29 South
RANGE: 42 East

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SCALE FEET



Cross Section E-E

SCALE: 1" = 30'

Notes: Elevations reference NAVD88 datum. OHWL = 1.9' NAVD88. Design depth reference "Conditions of Inland Waterways Jacksonville District". Absolute minimum from design channel edge reference "CESAJ (1200A)", Setback Guidance for Structures along Certain Federal Channels.

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