



**US Army Corps
of Engineers**
Philadelphia District
1650 Arch Street
Philadelphia, PA 19103-2004
Attn: CENAP-OPR

Public Notice

Comment Period Begins: June 24, 2024
Comment Period Ends: July 24, 2024
File Number: NAP-2012-00914-87
File Name: Burk Avenue Marina CM
Contact: Rachel Ward
Email: Rachel.J.Ward@USACE.army.mil

This District has received an application for a Department of the Army permit pursuant to Section 10 of the Rivers and Harbors Act of 1899 (33 U.S.C. 403) and Section 404 of the Clean Water Act (33 U.S.C. 1344).

The purpose of this notice is to solicit comments and recommendations from the public concerning issuance of a Department of the Army permit for the work described below.

APPLICANT: Scott Peter, Cape Holdings Group, LLC

AGENT: Nicole Hyde, Water's Edge Environmental, LLC
P.O. Box 118
Ocean City, NJ
08226

LOCATION: The project site is located in and adjacent to Post Creek/Grassy Sound at the northwestern terminus of W. Andrews Avenue, at Block 55, Lots 21 through 30; Block 65, Lot 23; and Block 66, Lots 1, 2.02, 3.02, 5.02, 6.02, 8.02 & 9.02, in the City of Wildwood (and a portion of Middle Township within the water area), Cape May County, New Jersey (38°59'31" N, 74°49' 53" W)

PURPOSE: The purpose of the project is to install/construct a public marina for the mooring of 96 recreational vessels.

PROJECT DESCRIPTION:

The project involves the construction of a 98-slip public marina consisting of a fixed pier (8' x 164' – 167.4') supported by piles (of which thirty-two (32) are in intertidal areas or in tidal wetlands), extending from an upland pier leading into the water to provide access to the following:

- Proposed ramp (3' x 20'), leading to a rectangular float (6' x 150'), with thirty (30) integral PWC berths (each 5' x 12'), and six (6) piles providing thirty (30) slips for PWCs.
- Proposed ramp (3' x 20'), leading to a "U" shaped floating dock with the following sections:

- Proposed float (8' x 104'), with seven (7) open racks for paddle boards, and four (4) piles.
- Proposed float (8' x 227'), with fourteen (14) finger floats (each 3' x 12') and one (1) terminus finger float (3' x 48'), and sixty (60) piles, providing thirty (30) boat slips.
- Proposed float (8' x 300'), with nine (9) finger floats (each 3' x 20') and eight (8) finger floats (each 3' x 15'), and one (1) terminus finger float (5' x 66.5'), and seventy-four (74) piles, providing thirty-eight (38) boat slips.

Boats moored at the marina are anticipated to have drafts ranging from approximately 1.5 to 3 feet.

The project also entails new mechanical dredging of the proposed marina area to a depth of -4.00 mean low water datum in the proposed marina basin and within mooring areas (approximately 4,989 cubic yards of material). The area to be dredged is approximately 55,032 square feet (1.26 acres). The dredged material will be placed within a hopper barge, moved to, and offloaded on-site in an upland area, and then trucked to Surran's Soil Replenishment, LLC: 216 Route 50, Corbin City, NJ 08270 for upland reuse. Generally, the sediment to be dredged was observed to contain black silty-sandy bay material, based on two (2) sediment core samples (Core 1 & Core 2). Core 1 contained approximately 0.070% gravel, 66.8% sand, and 33.2% silt/clay sized particles. Core 2 contained approximately 8.1% gravel, 73.1% sand, and 18.8% silt/clay sized particles. The applicant anticipates maintenance dredging every 5-7 years, as needed.

The proposed in-water work (dredging & installation of the marina docking facility) would occur from the water using barge mounted equipment (such as two hopper barges for dredge material transportation, a push boat, one barge with an excavator, and a work boat). Silt curtains will be installed and maintained around the dredge area whenever operationally feasible. All proposed piles are to be installed via vibratory hammer.

The project also entails associated residential development landward of the marina. This would include construction of a 4-story 16-unit residential dwelling and an associated parking area. This development would occur entirely above the HTL and primarily in uplands but would result in filling of approximately 3,119.2 S.F. of a non-tidal freshwater wetland (0.072 acres, 173.3 cubic yards of clean sandy fill). Other upland development includes construction of a marina bar, construction of a footpath/sidewalk, and installation of a gabion retention wall (in uplands) along the southwestern/water-side perimeter of the property, as well as a section of timber retaining wall along a section of the southern perimeter of the property (in uplands).

A 3,453 S.F. (0.08 ac) area of historically placed fill (upland dirt road constructed prior to 1956) is proposed to be excavated to be submerged at high tide and planted with native wetland plants in order to encourage re-establishment of wetlands along the edge of a proposed footpath/concrete sidewalk. This wetland restoration is proposed for the purpose of improving the appearance of the landscape for residents and visitors of

the marina while also improving wildlife habitat. Upon removal of fill from the existing dirt road and restoration of tide to this area the aforementioned gabion retention wall would be exposed to the high tide in some locations.

The project site currently consists of an asphalt lot, gravel/dirt access road, mowed grassy areas, and storage sheds. A non-tidal wetland (approximately 3,119.2 S.F. or 0.072 acres) exists in a mowed grassy area within the southeasterly portion of the site. The westerly portion of the uplands on site transitions into coastal wetlands associated with the adjacent waterway, Post Creek/Grassy Sound.

A CZM, WQC, WFD IP-Commercial/Industrial/Public (Waterward), and Acceptable Use Determination was issued by NJDEP DLRP for this project on December 6, 2023 (0514-06-0020.2 LUP230002).

MITIGATION

The applicant has stated that the proposed project has been designed to avoid and minimize adverse effects on the aquatic environment to the maximum extent practicable. No fill is proposed in subtidal or intertidal areas. Fill (.072 acre) is proposed in a freshwater emergent wetland area located in the undeveloped lot. Information provided in the application indicates that the project was designed with the minimum fill required to effectively develop the site given its small size. Additionally, the applicant has voluntarily designed wetland restoration into the project, which will entail removal of historic fill and re-establishment of tidal flow to 3,453 SF (0.08 acre) of areas currently not subject to the tide. This voluntary wetland restoration is proposed for the purpose of improving the appearance of the landscape for residents and visitors of the marina while also improving wildlife habitat.

To further avoid and minimize adverse effects/impacts on the aquatic environment, the project will utilize non-polluting material for all proposed construction waterward of the HTL, such as composite materials/tropical hardwoods for the proposed fixed pier and the floating docks/PWC berths, aluminum ramps, & vinyl coated/wrapped piles (not to exceed 12" diameter). All piles will be installed using a vibratory hammer.

To avoid impacts to navigation, the marina/dock structures were designed to extend no closer than 175-feet from the edge of the New Jersey Intra-Coastal Waterway in Grassy Sound. This distance is greater than that of the adjacent properties' waterfront structures (docks) and mooring areas in Grassy Sound that are located on the south side of the George Redding Bridge.

Information provided in the application and on the plans indicates that the discharge of dredged or fill material in waters of the United States is minimal (less than 1/10th of an acre), and as such, compensatory mitigation for the proposed structure(s) and/or work is not proposed.

For additional project details, see the attached plans identified as: "USACE Permit Plan, Post Creek, Burk Avenue, Block 55 – Lots 21 thru 30, Block 65 – Lot 23 Block 66 LOTS 1, 2.02, 3.02, 5.02, 6.02, 8.02 and 9.02, City of Wildwood (and a Portion of Middle Township) Cape May County, NJ, Applicant: Cape Holdings Group, LLC",

sheets DWG. NO. 2221-2-22, Sheets 1-5, dated November 16, 2023, November 22, 2023, and March 20, 2024, last revised June 3, 2024, prepared by Andrew C. Shawl; and "USACE Existing Conditions Plan, Post Creek, Burk Avenue, Block 55 – Lots 21 thru 30, Block 65 – Lot 23 Block 66 LOTS 1, 2.02, 3.02, 5.02, 6.02, 8.02 and 9.02, City of Wildwood (and a Portion of Middle Township) Cape May County, NJ, Applicant: Cape Holdings Group, LLC", sheets DWG. NO. 2221-2-22, Sheet 1 of 1, dated March 20, 2024, last revised June 3, 2024, prepared by Andrew C. Shawl.

CORPS EVALUATION FACTORS

The decision whether to issue a permit will be based on an evaluation of the activity's probable impact including its cumulative impacts on the public interest. The 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 work must be balanced against its reasonably foreseeable detriments. All factors which may be relevant to the work will be considered including the cumulative effects thereof. Among these factors are conservation, economics, aesthetics, general environmental concerns, wetlands, cultural values, fish and wildlife values, flood hazards, flood plain values, land use, navigation, shore erosion and accretion, recreation, water supply and conservation, water quality, energy needs, safety, food and fiber production, mineral needs and welfare of the people.

The evaluation of the impact of this project will also include application of the Clean Water Act Section 404(b)(1) Guidelines promulgated by the Administrator, U.S. Environmental Protection Agency if the project includes a discharge of dredge or fill material pursuant to Section 404 of the Clean Water Act.

ENDANGERED SPECIES

A preliminary review of this application indicates that species and/or their critical habitat pursuant to Section 7 of the Endangered Species Act (ESA) may be present in the action area. This office will forward this Public Notice to the U.S. Fish and Wildlife Service (USFWS) and/or National Marine Fisheries Service (NMFS) with a request for technical assistance on whether any ESA-listed species or their critical habitat may be present in the area which would be affected by the proposed activity. This office will evaluate the potential effects of the proposed actions on ESA-listed species or their critical habitat and will consult with the USFWS and/or NMFS, as appropriate. ESA Section 7 consultation would be concluded prior to the final decision on this permit application.

CULTURAL RESOURCES AND TRIBAL TRUST

The District's Cultural Resource Specialist and Tribal Liaison is currently reviewing the proposed permit action for potential impacts to Historic Properties eligible for or listed on the National Register of Historic Places and for potential issues concerning the

Tribes. A determination of effects will be coordinated with the State Historic Preservation Office, the Tribes and other consulting parties as necessary.

ESSENTIAL FISH HABITAT

The Magnuson-Stevens Fishery Conservation and Management Act (MSA) requires all federal agencies to consult with the NMFS for all actions, or proposed actions, permitted, funded, or undertaken by the agency that may adversely affect Essential Fish Habitat (EFH). A preliminary review of this application indicates that EFH is present within the project area. This office will evaluate the potential effects of the proposed actions on EFH and will consult with NMFS, as appropriate. Consultation would be concluded prior to the final decision on this permit application.

The applicant has stated that in-water work would not occur between March 1st and June 30th of any given year, to minimize adverse effects to migrating and spawning anadromous fish as required by the CZM, WQC, and WFD IP issued for this project by NJDEP DLRP (0514-06-0020.2 LUP230002, issued December 6, 2023).

WATER QUALITY CERTIFICATE

In accordance with Section 401 of the Clean Water Act, a Water Quality Certificate (WQC) is required from the State government in which the work is located. The applicant has received a WQC from the State for the subject project.

COASTAL ZONE MANAGEMENT ACT

In accordance with Section 307(c) of the Coastal Zone Management Act of 1972, applicants for Federal Licenses or Permits to conduct an activity affecting land or water uses in a State's coastal zone must provide certification that the activity complies with the State's Coastal Zone Management (CZM) Program. The applicant has received a CZM consistency concurrence from the State for the subject project.

SUBMISSION OF COMMENTS AND PUBLIC HEARING REQUEST

Any comments received will be considered by this office to determine whether to issue, modify, condition, or deny a permit for this proposed project. To make this decision, comments are used to assess the probable impact on the public interest. Comments are also used to determine the need for a public hearing and to determine the overall public interest of the proposed activity.

Comments on the proposed work must be submitted, in writing, within the comment period indicated in the header above. Any person may request, within the comment period specified in this notice, that a public hearing be held to consider this application. Requests for a public hearing must be in writing and state the reasons for holding a public hearing.

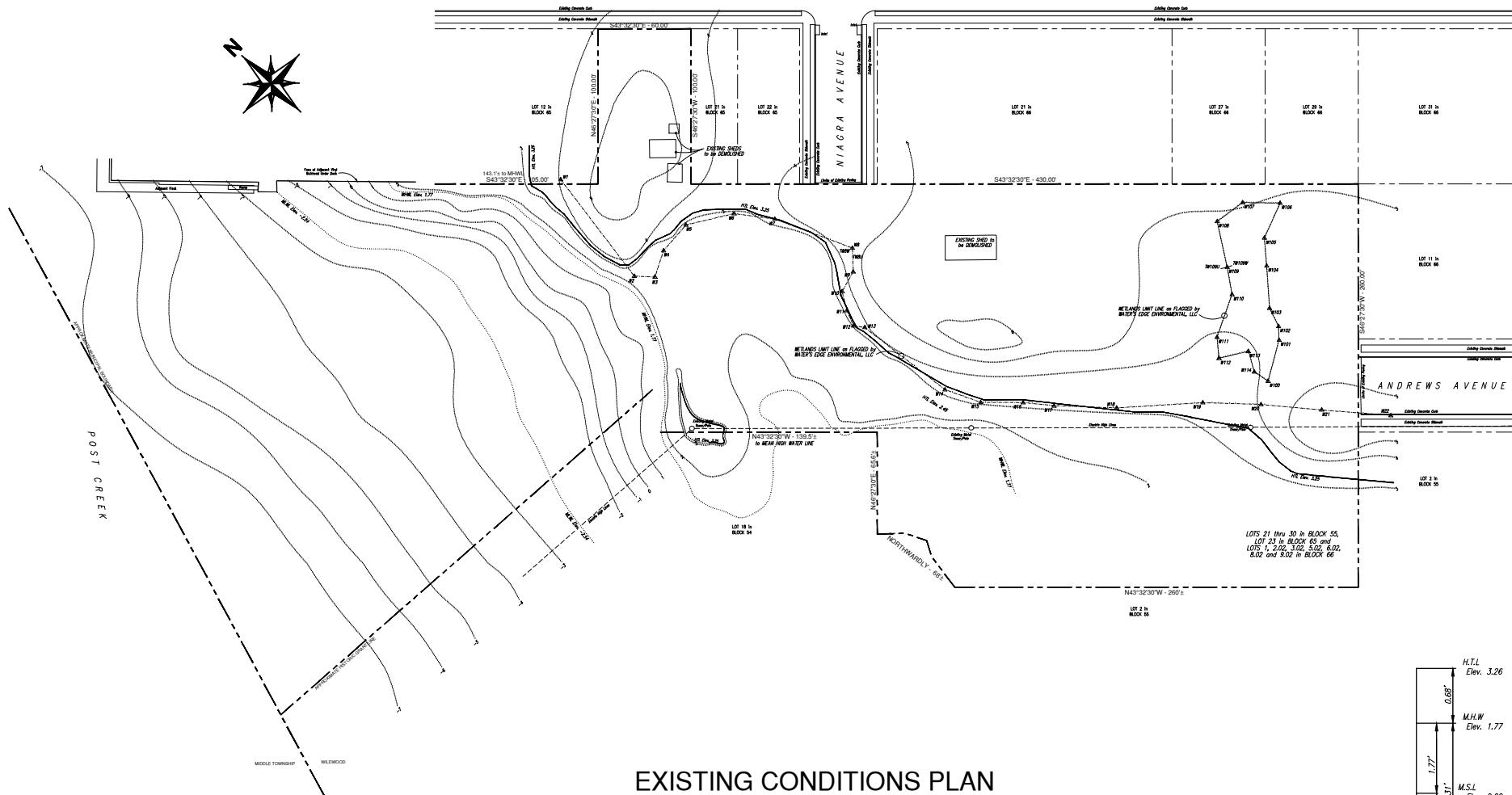
Please provide any comments, request for a public hearing, or requests for additional information to the Regulatory Project Manager indicated above. All Public Notices are posted on our website at:

<https://www.nap.usace.army.mil/Missions/Regulatory/Public-Notices/>

FOR: Todd A. Schaible
Chief, Regulatory Branch



W. BURK AVENUE



EXISTING CONDITIONS PLAN

SCALE: 1" = 100'

PLAN

The INFORMATION SHOWN HEREON is NOT for CONSTRUCTION or SPECIFICATION PURPOSES

USACE EXISTING CONDITIONS PLAN

POST CREEK
BURK AVENUE

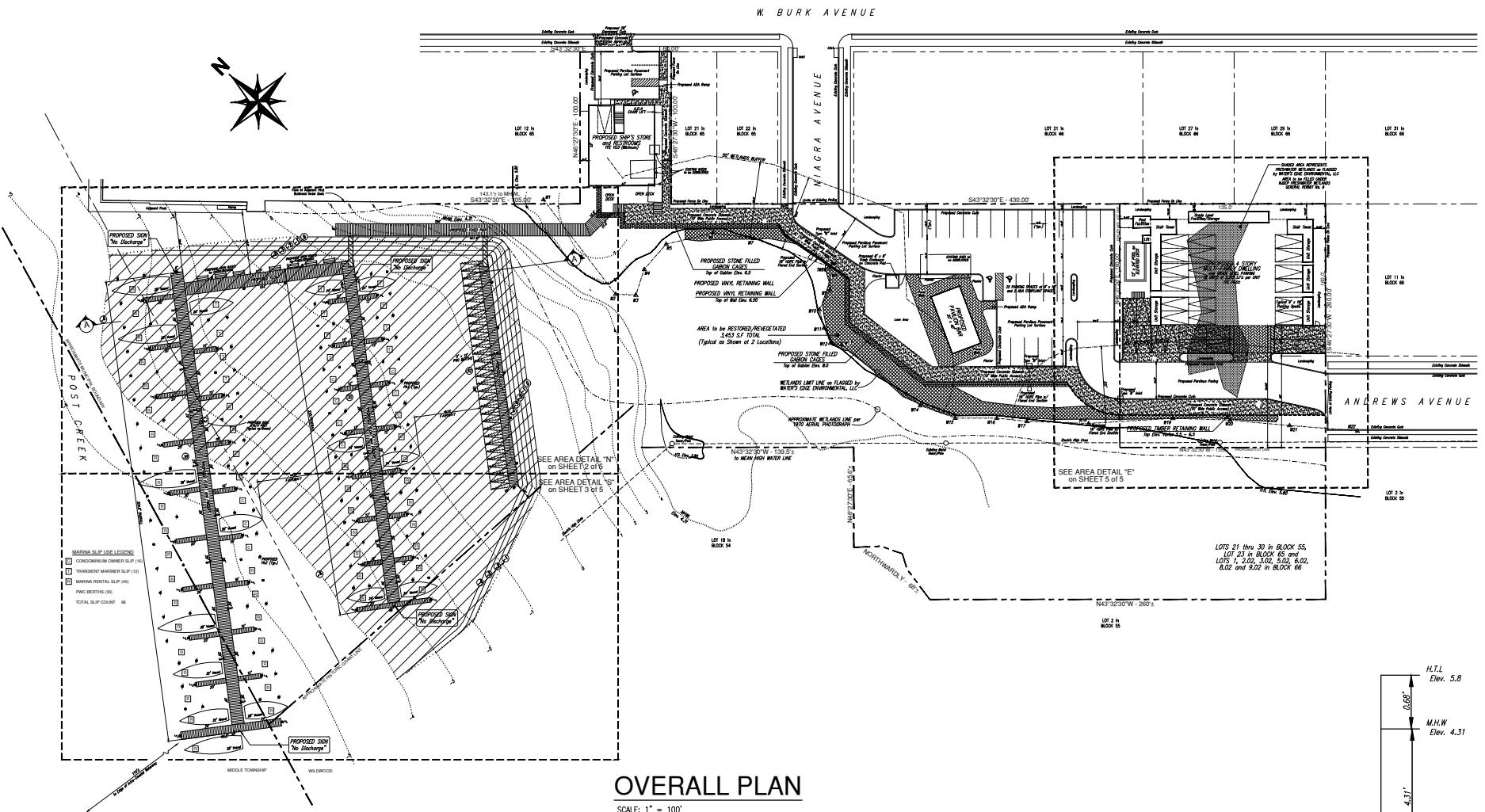
BLOCK 55 – LOTS 21 thru 30 BLOCK 65 – LOT 23
BLOCK 66 – LOTS 1, 2.02, 3.02, 5.02, 6.02, 8.02 and 9.02
CITY of WILDWOOD (and a PORTION of MIDDLE TOWNSHIP)
CAPE MAY COUNTY, NEW JERSEY
APPLICANT: Cape Holdings Group, LLC

ELEVATIONS are in FEET and REFER to N.A.V.D, 1988

REVISIONS	6-03-2024	H.T.L.	ANDREW C. SHAWL	N.J. PROFESSIONAL ENGINEER License No. 24GE04012700
			ANDREW C. SHAWL P.E., L.L.C. 6 LAKE CORSON LANE MARMORA, NJ 08223	PHONE: (609)846-3975 FAX: (609)249-3860 EMAIL: ashawl@protonmail.com

DWN BY: WEE

DATE: Mar. 20, 2024 DWG. NO. 2221-3-22 SHT. 1 of 1



PLAN and SECTION

The INFORMATION SHOWN HEREON is NOT for CONSTRUCTION or SPECIFICATION PURPOSES

USACE PERMIT PLAN

POST CREEK
BURK AVENUE

BLOCK 55 – LOTS 21 thru 30 BLOCK 65 – LOT 23
BLOCK 66 – LOTS 1, 2.02, 3.02, 5.02, 6.02, 8.02 and 9.02
CITY of WILDWOOD (and a PORTION of MIDDLE TOWNSHIP)
CAPE MAY COUNTY, NEW JERSEY
APPLICANT: Cape Holdings Group, LLC

ELEVATIONS are in FEET and REFER to MEAN LOW WATER

REVISIONS	6-03-2024	HTL	6.69'	4.31'	0.69'
3. HTL	5-07-2024				
2. GENERAL REVISION					
1. PER USACE COMMENTS	4.17.24				

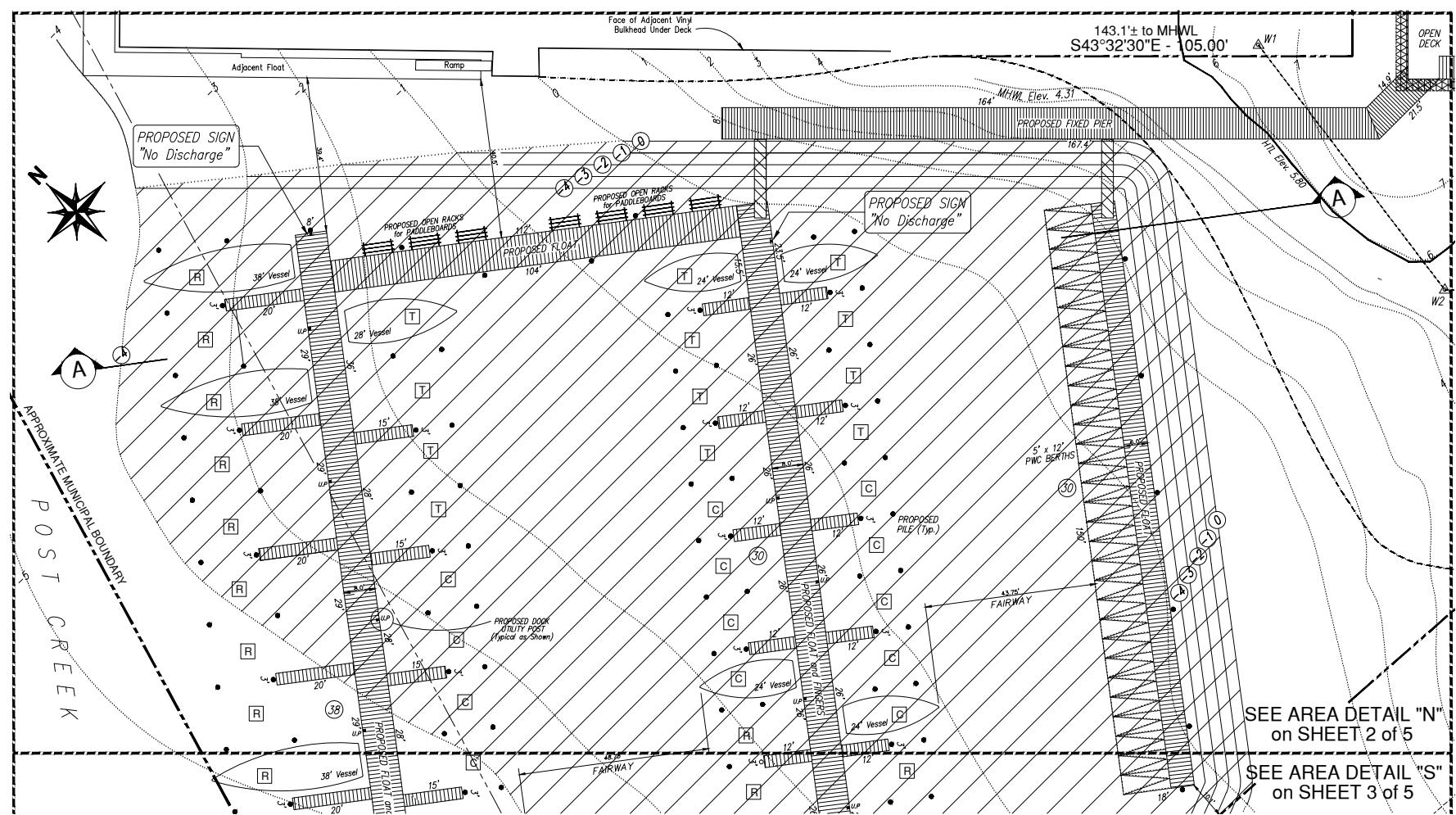
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DWN BY: WEE

DATE: Nov. 22, 2023

DWG. NO. 2221-2-22

SHT. 1 of 5



AREA DETAIL "N"

SCALE: 1" = 40'

PROPOSED DREDGING



AREA to be DREDGED to -4.00
55,032 S.F. AREA to be DREDGED
4,989 C.Y.± to be REMOVED

LEGEND

- EXISTING CONTOUR
- PROPOSED CONTOUR

PLAN and SECTION

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ELEVATIONS are in FEET and REFER to MEAN LOW WATER

6-03-2024

REVISIONS

1

ANDREW C. SHAWL

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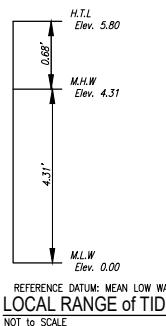
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DWN BY: WEE

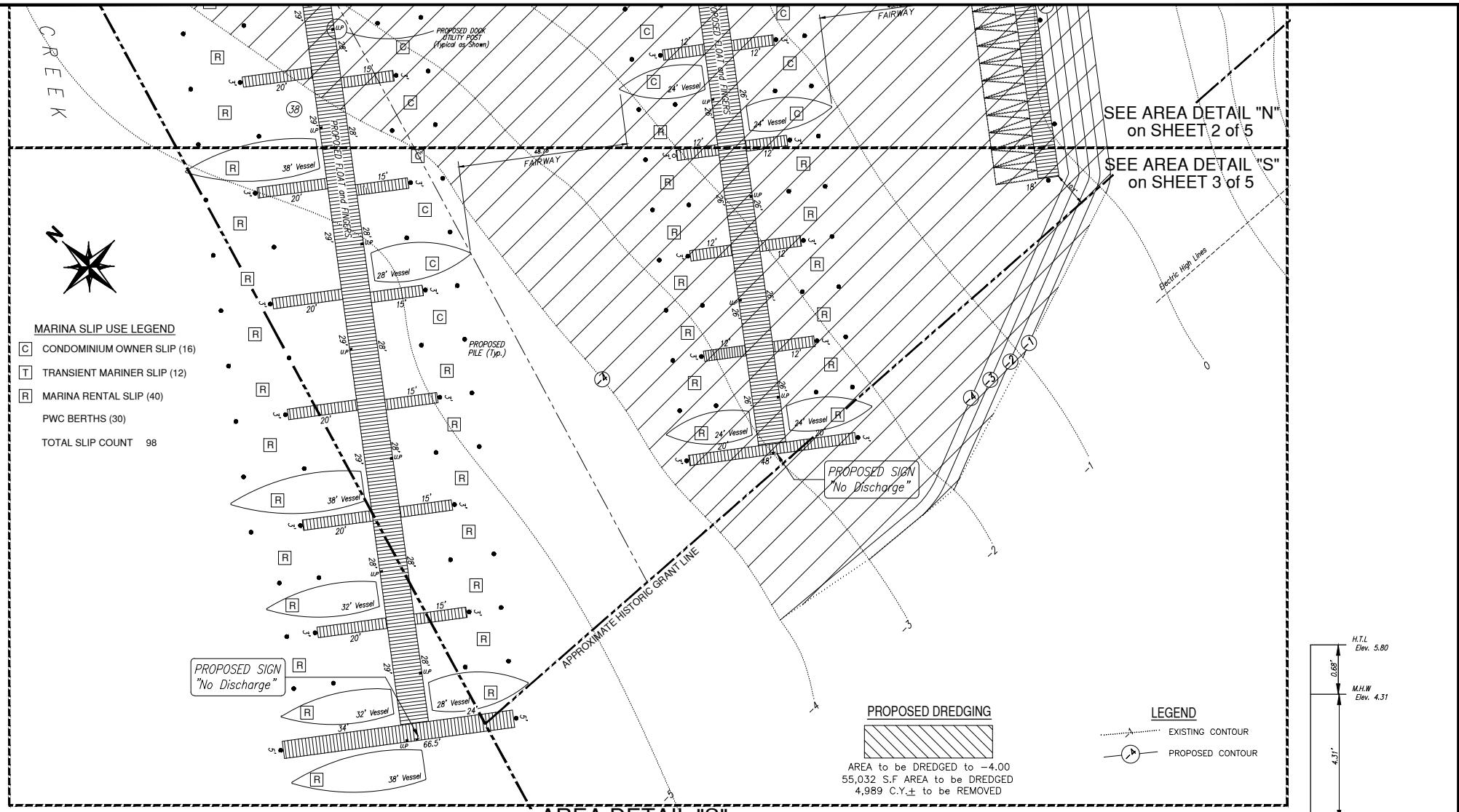
DATE: Nov. 22, 2023

DWG. NO. 2221-2-22

SHT. 2 of 5



REFERENCE DATUM: MEAN LOW WATER
LOCAL RANGE OF TIDES
NOT to SCALE



USACE PERMIT PLAN

POST CREEK

BURK AVENUE

BLOCK 55 – LOTS 21 thru 30 BLOCK 65 – LOT 23
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 CAPE MAY COUNTY, NEW JERSEY
 APPLICANT: Cape Holdings Group, LLC

ELEVATIONS are in FEET and REFER to MEAN LOW WATER

REVISIONS

6-03-2024

H.L.

ANDREW C. SHAWL

N.J. PROFESSIONAL ENGINEER
 License No. 24GE04012700

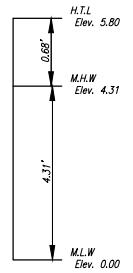
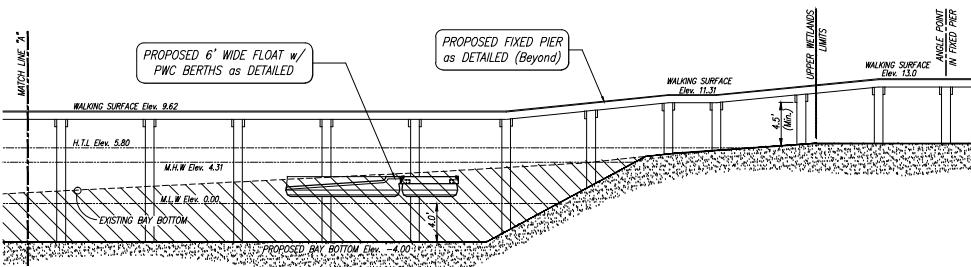
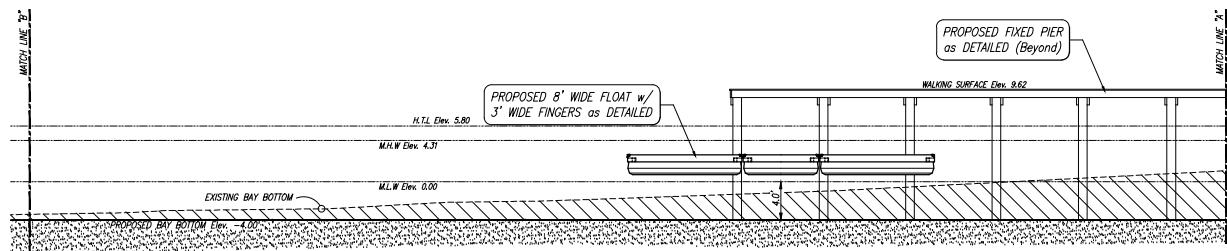
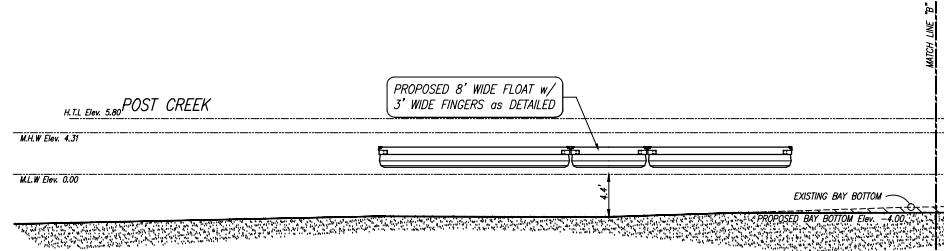
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DWN BY: WEE

DATE: Nov. 22, 2023

DWG. NO. 2221-2-22

SHT. 3 of 5



REFERENCE DATUM: MEAN LOW WATER
LOCAL RANGE OF TIDES
NOT to SCALE

PLAN and SECTION

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USACE PERMIT PLAN

POST CREEK
BURK AVENUE

BLOCK 55 – LOTS 21 thru 30 BLOCK 65 – LOT 23
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CITY of WILDWOOD (and a PORTION of MIDDLE TOWNSHIP)
CAPE MAY COUNTY, NEW JERSEY
APPLICANT: Cape Holdings Group, LLC

REVISIONS				
			6-03-2024	HIL

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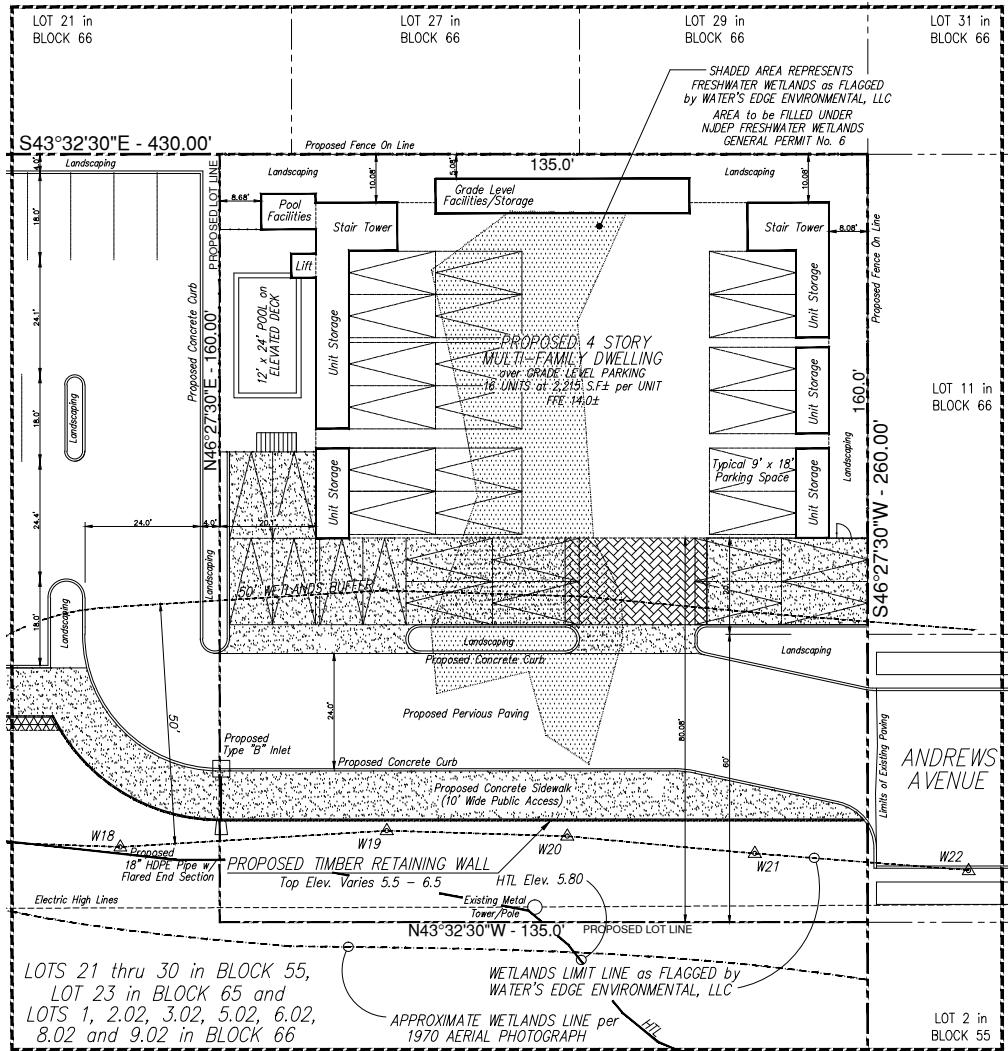
ELEVATIONS are in FEET and REFER to MEAN LOW WATER

DWN BY: WEE

DATE: Nov. 16, 2023

DWG. NO. 2221-2-22

SHT. 4 of 5



AREA DETAIL "E"

SCALE: 1" = 40'

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USACE PERMIT PLAN

POST CREEK BURK AVENUE

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CAPE MAY COUNTY, NEW JERSEY
APPLICANT: Cape Holdings Group, LLC

ELEVATIONS are in FEET and REFER to MEAN LOW WATER

REVIEWS

2.	HTL	3-03-2024
1.	GENERAL REVISION	
	5-07-2024	
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License No. 24GE04012700		
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REFERENCE DATUM: MEAN LOW WATER
LOCAL RANGE of TIDES
NOT to SCALE

A vertical line representing water elevation. At the top, an arrow points upwards from a horizontal line labeled "H.T.L. Elev. 5.80". In the middle, another arrow points downwards from a horizontal line labeled "M.H.W. Elev. 4.31". At the bottom, an arrow points upwards from a horizontal line labeled "M.L.W. Elev. 0.00". The distance between the H.T.L. and M.H.W. lines is labeled "0.68'". The distance between the M.H.W. and M.L.W. lines is labeled "4.31'".

AREA to be FILLED 3.119.2 S.F. (0.072 Acre)

SCALE 1" =