



**US Army Corps
of Engineers**
Philadelphia District

Wanamaker Building
100 Penn Square East
Philadelphia, PA 19107-3390
ATTN: CENAP-OP-R

Public Notice

Public Notice No.
CENAP-OP-R-2016-109

Date

Application No.
CENAP-OP-R-2016-109

File No.

CENAP-OP-R-2016-109-85

In Reply Refer to:
REGULATORY BRANCH

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).

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: Linford P. Faucett, III

AGENT: Kelly J. Pierson, Back Creek Environmental Consulting, LLC

WATERWAY: Roman T. Pond

LOCATION: 36625 Long Neck Road, Millsboro, Sussex County, Delaware
Tax Map Parcel 2-34-25.00-31.02 (Lat.38.62806° N/Long.-75.10374° W).

ACTIVITY: The applicant, Linford P. Faucett, III has requested a Department of the Army permit to install 2 fishing piers (interior pier and Roman T. Pond pier) at the Resort at Massey's Landing to provide fishing, crabbing and environmental education opportunities to resort guests located at Tax map Parcel #2-34-25.00-31.02 Millsboro, Sussex County, Delaware. The interior pier has a total length of 243 linear feet, with 129.5 linear feet located over Section 10 waters and 76.3 linear feet located over Section 404 wetlands. The Roman T. Pond Pier has a total length of 311.8 linear feet, with 162.5 linear feet located over Section 10 waters and 95.5 linear feet located over Section 404 wetlands. The dimensions of the structures are indicated on the attached plans identified as E-1 through E-11.

PURPOSE: The purpose of the project is to provide fishing, crabbing and environmental education opportunities for resort guests.

On April 10, 2008, the U.S. Army Corps of Engineers and the U.S. Environmental Protection Agency published a *Final Rule on Compensatory Mitigation for the Losses of Aquatic Resources* (33 CFR 325 and 332 and 40 CFR 230). The rule took effect on June 9, 2008. In accordance with 33 CFR Part 325.1(d)(7) of the rule, 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, and has further documented that compensatory mitigation is not necessary. The following aspects and features of the project demonstrate the applicant's efforts in this regard.

The project cannot be avoided entirely because it is, by its nature, a water-dependent activity. The project is for the installation of structures only and has been designed not only to entirely avoid dredging and discharges of dredged or fill material into waters of the United States, but also has been designed to avoid and minimize impacts to wetlands and submerged aquatic vegetation. In addition, the structures have been designed to be in compliance with the Americans with Disabilities Act. Because wetlands or other special aquatic sites would be minimally impacted by pilings, the applicant is not proposing to conduct any compensatory mitigation for the work.

A preliminary review of this application indicates that the proposed work would not affect listed species or their critical habitat pursuant to Section 7 of the Endangered Species Act as amended. As the evaluation of this application continues, additional information may become available which could modify this preliminary determination.

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 those 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. A Department of the Army permit will be granted unless the District Engineer determines that it would be contrary to the public interest.

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.

Comments on the proposed work should be submitted, in writing, within 15 days to the District Engineer, U.S. Army Corps of Engineers, Philadelphia District, Wanamaker Building, 100 Penn Square East, Philadelphia, Pennsylvania 19107-3390.

Review of the National Register of Historic Places indicates that no registered properties or properties listed as eligible for inclusion therein are located within the permit area of the work. The Philadelphia District has determined that the proposed project is of such limited nature and scope that little likelihood exists for the proposed action to impact an historic property. The District has determined that the project will have no effect on properties eligible for or listed in the National Register of Historic Places.

Essential Fish Habitat: The Magnuson-Stevens Fishery Conservation and Management Act, as amended by the Sustainable Fisheries Act 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 effect Essential Fish Habitat (EFH).

Effects of the Project: The project is located in Essential Fish Habitat identified on the *Guide to Essential Fish Habitat Designations in the Northeastern United States, Volume IV: New Jersey and Delaware* website. The following managed species of fish have been listed in the guide as occurring in the vicinity of the project: Atlantic cod (*Gadus morhua*), red hake (*Urophycis chuss*), winter flounder (*Pleuronectes americanus*), windowpane flounder (*Scophthalmus aquosus*), Atlantic sea herring (*Clupea harengus*), monkfish (*Lophius americanus*), bluefish (*Pomatomus saltatrix*), Atlantic butterflyfish (*Peprilus triacanthus*), summer flounder (*Paralichthys dentatus*), scup (*Stenotomus chrysops*), black sea bass (*Centropristus striata*), king mackerel (*Scomberomerus cavalla*), Spanish mackerel (*Scomberomerus maculatus*), cobia (*Rachycentron canadum*), sand tiger shark (*Odontaspis Taurus*), Atlantic angel shark (*Squatina dumerili*), sandbar shark (*Carcharhinus obscurus*), Atlantic sharpnose shark (*Rhizopriondon terraenovae*), dusky shark (*Carcharhinus plumbeus*), sandbar shark (*Carcharhinus plumbeus*), scalloped hammerhead shark (*Sphyrna lewini*), tiger shark (*Galeocerdo cuvieri*).

Analysis of the Effects: The proposed piers which are the subject of this application would occur in a small area of waters; The Roman T. Pond pier near an active navigation channel subject to regular boating activity and substantial wake energy and potential erosion and the interior pier located in a lagoon. The proposed Roman T. Pond pier is located in an area that is an unlikely spawning or nursery area for the managed species. Consequently, concentrations of the sessile life stages (eggs and larva) of the listed species are not expected to be within the Roman T. Pond pier area under review. The proposed interior pier is located in a lagoon with shallow water habitat that may impact sessile life stages (eggs and larva) of some of the listed species. Therefore, any Department of the Army permit issued for the proposed work would include a seasonal restriction on proposed work in order to ensure that impacts resulting from the project would not be more than minimal. The pelagic adults and juveniles of the listed species are highly mobile and capable of avoiding such impacts as may be associated with the construction of the 2 piers. As the evaluation of this application continues, additional information may become available which could modify this preliminary determination.

Corps of Engineers View: Based upon the above analysis, the Corps of Engineers has determined that the proposed project would not have substantial direct, indirect, site-specific, or habitat-wide impacts on EFH, or upon the managed species and their life stages listed in the above referenced EFH guide, either individually, cumulatively or synergistically. The proposed project would not eliminate, diminish, nor disrupt the functions of EFH.

Proposed Mitigation: Special conditions, such as time of year restrictions, may be imposed as to not degrade water quality during times of anadromous fish migration and/or spawning pending comments from State and other Federal agencies.

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

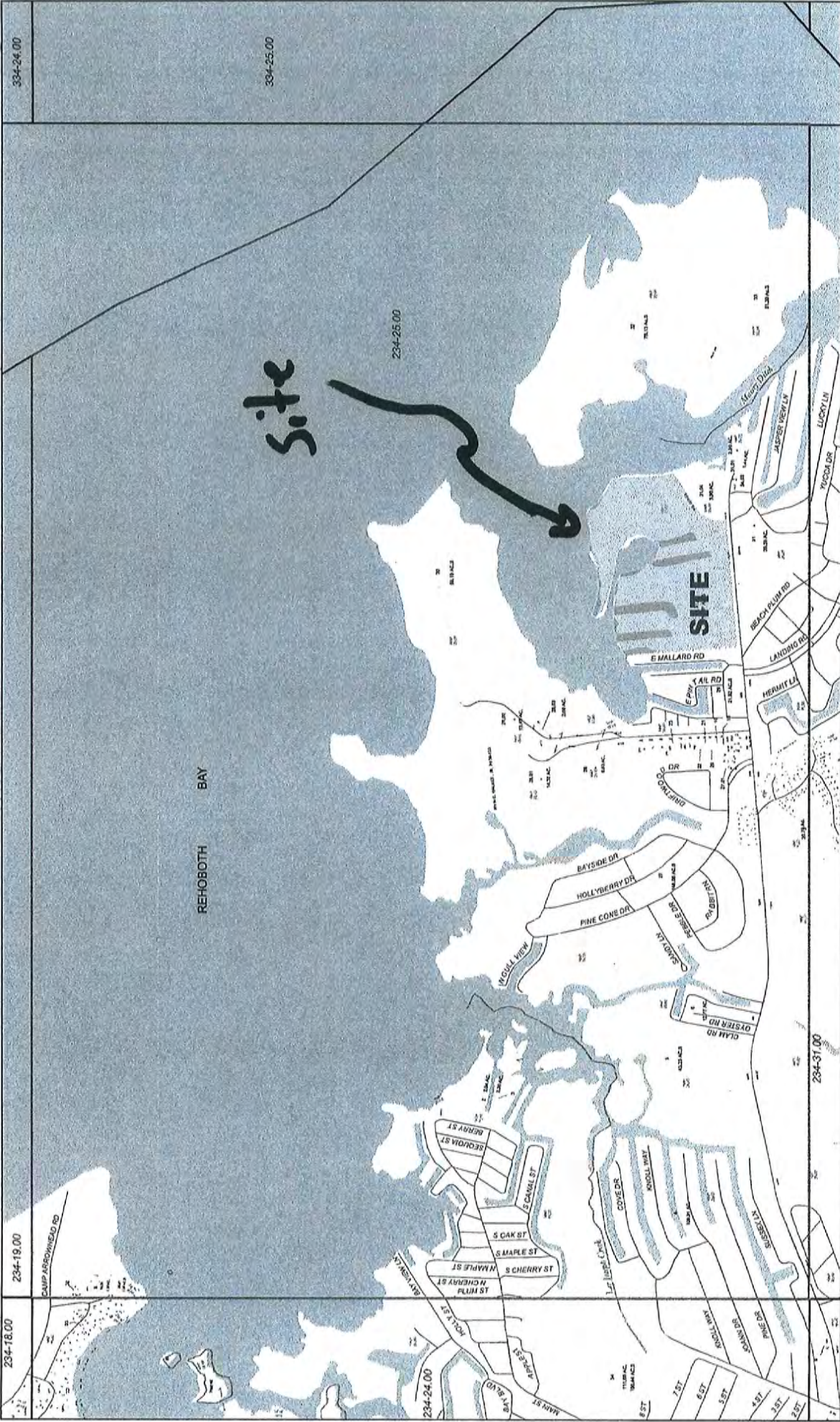
coastal zone must provide certification that the activity complies with the State's Coastal Zone Management Program. The applicant has stated that the proposed activity complies with and will be conducted in a manner that is consistent with the approved State Coastal Zone Management (CZM) Program. No permit will be issued until the State has concurred with the applicant's certification or has waived its right to do so. Comments concerning the impact of the proposed and/or existing activity on the State's coastal zone should be sent to this office, with a copy to the State's Office of Coastal Zone Management.

Any person may request, in writing, to the District Engineer, within the comment period specified in this notice, that a public hearing be held to consider this application. Requests for a public hearing shall state in writing, with particularity, the reasons for holding a public hearing.

Additional information concerning this permit application may be obtained by calling Michael Yost at 302-736-9763, by email at michael.d.yost@usace.army.mil or by writing this office at the above address.

Samuel L. Reynolds
Acting Chief, Regulatory Branch

2016-109 E-1



Date Printed: Jun 03, 2011



Sussex County Delaware

Legend

Map Line - 1:100

Map Number - 1:100

Adjunct Map - 1:50-1:200



334-24.00

334-25.00

234-25.00

284-31.00

site

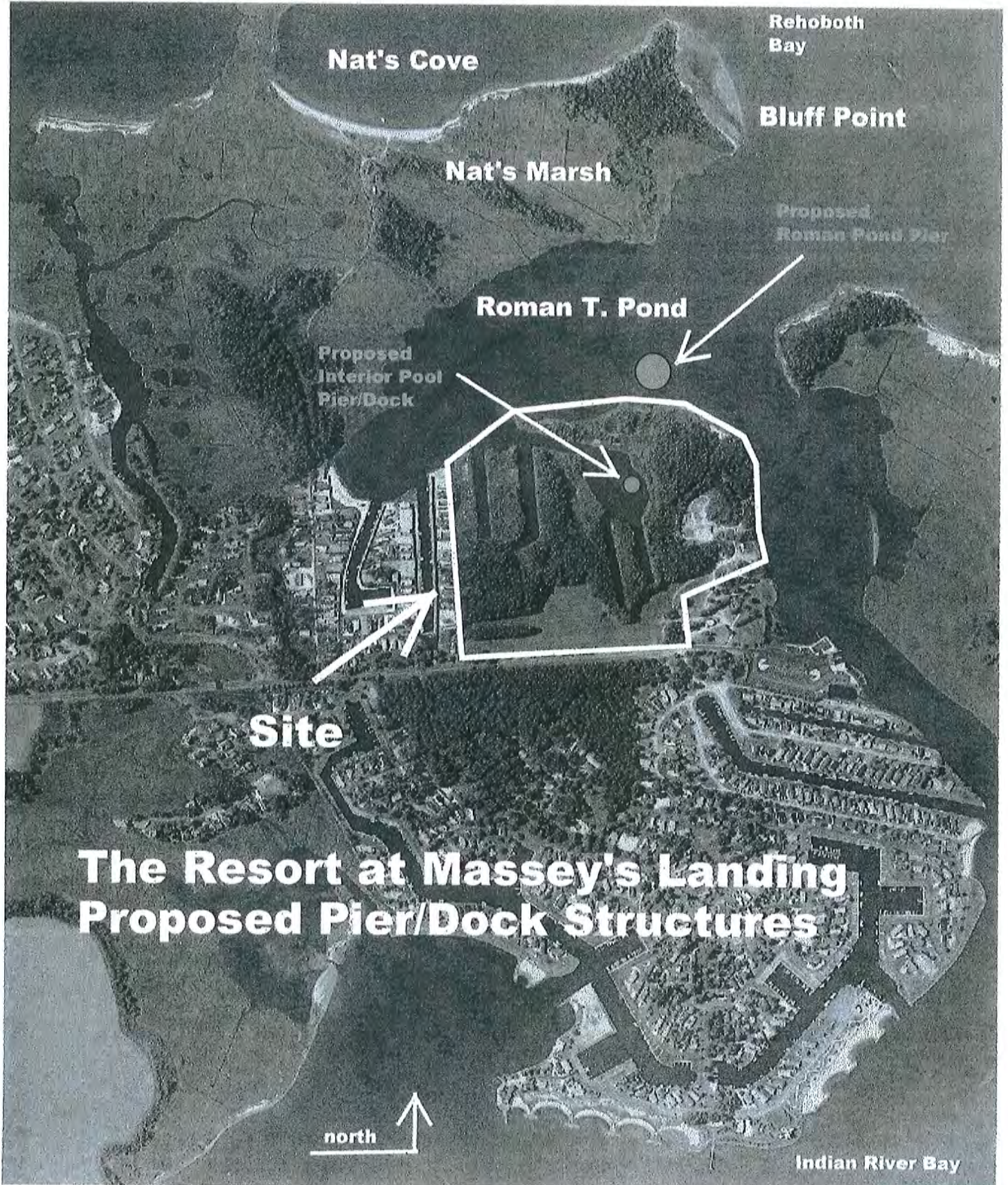
SITE

REHOBOTH BAY

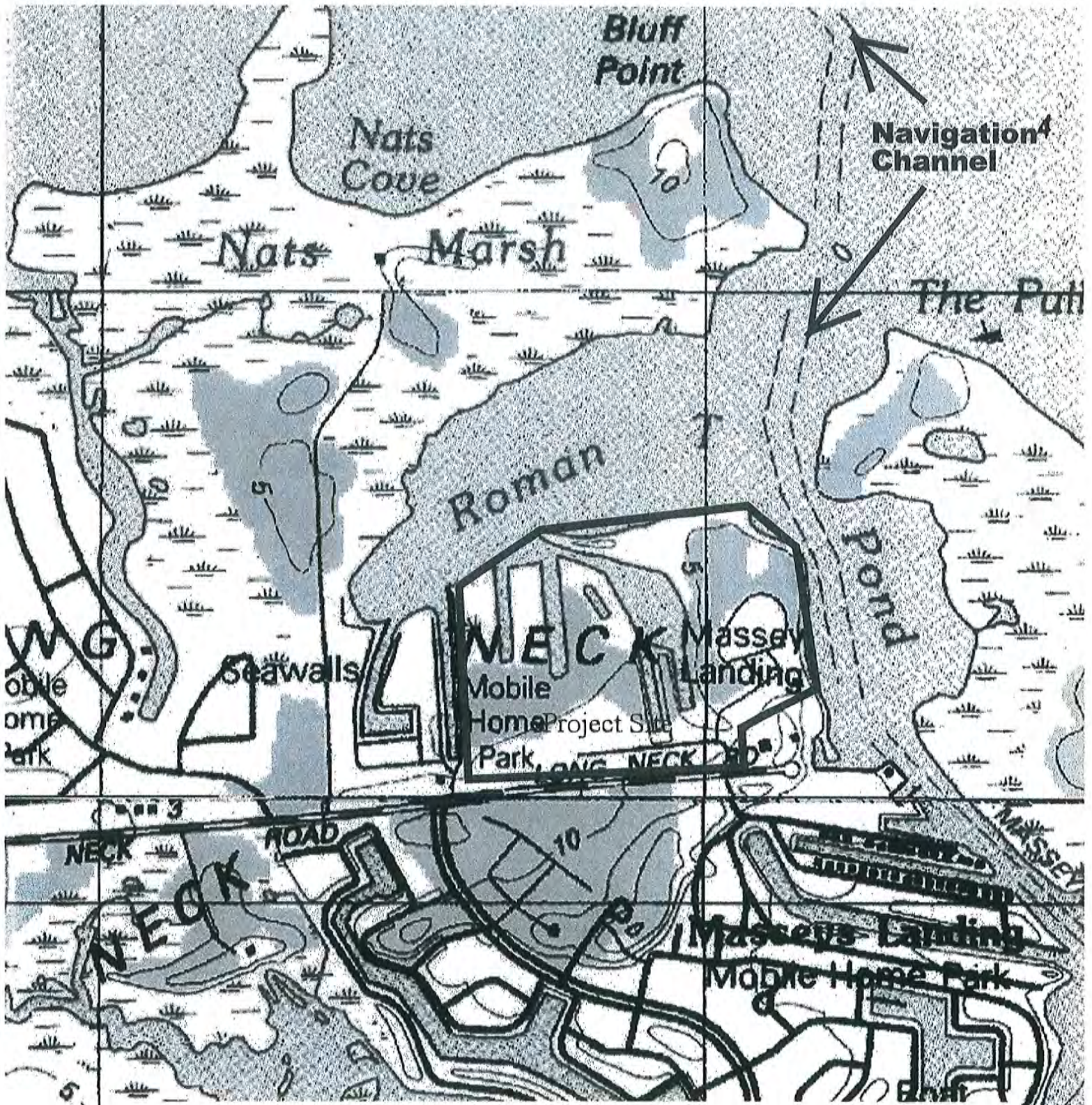
234-18.00

234-19.00

234-24.00



**The Resort at Massey's Landing
Proposed Pier/Dock Structures**

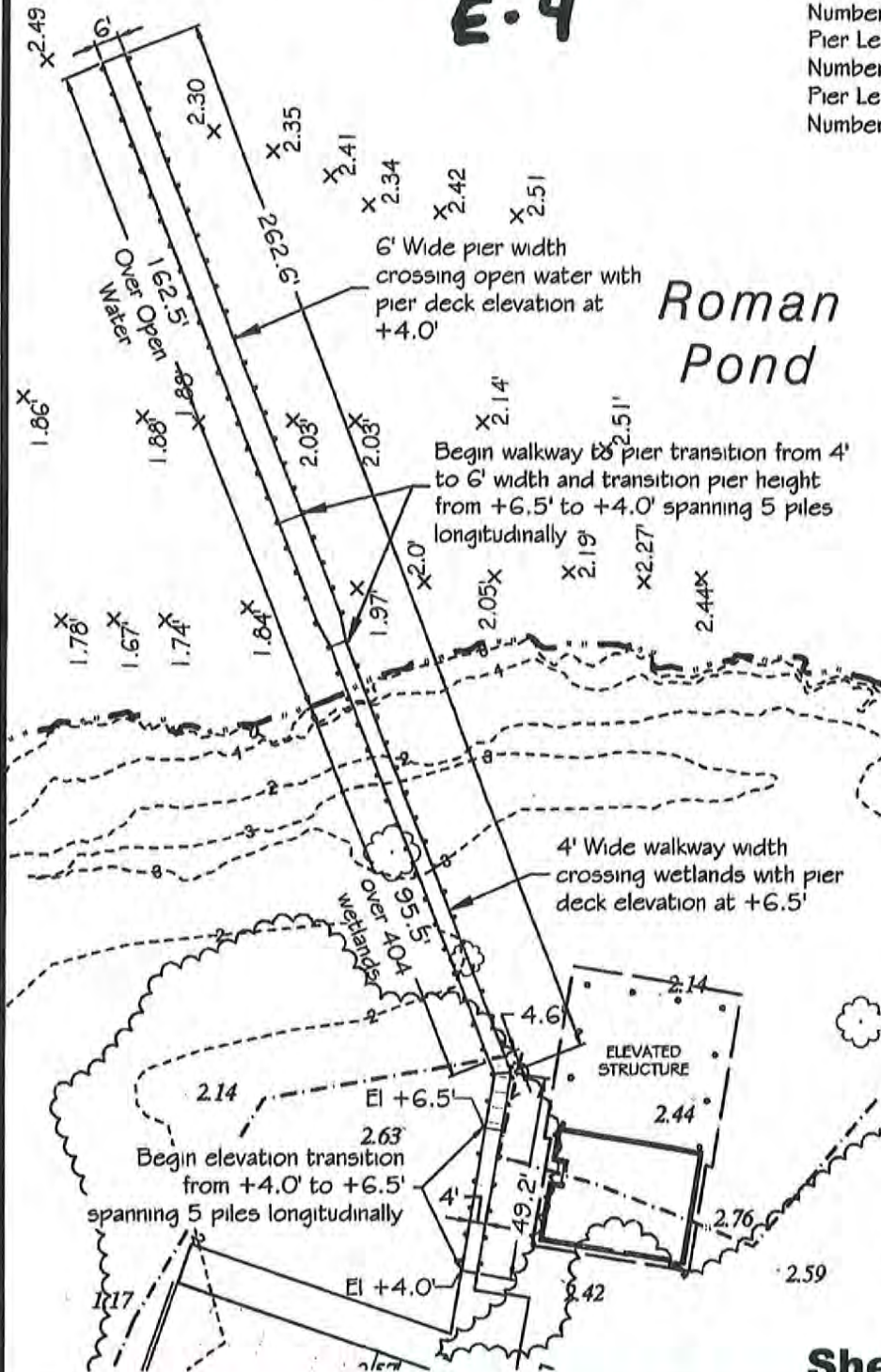


The Resort at Massey's landing

2016-109
E-4

Notes

Total Length of Pier	311.8'
Pier Length Over Open Water	162.5'
Number of Piles in Open Water	50
Pier Length Over 404 Wetlands	95.5'
Number of Piles in 404 Wetlands	30
Pier Length Over Upland	53.8'
Number of Piles in Upland	17



Roman Pond

NOTE:

x 2.0' = depth of water at MLW and not bottom elevations. Site Specific MLW = -0.8' MHW = +0.7'

NOTE:

Vertical datum is based on NAVD 1988 (land contours & elevations only)

Federal Jurisdiction Determination Approval 9/28/2012

DNR Map 038

LEGEND

MHW SHORELINE	
LIMITS OF FEDERAL JURISDICTION	
EXISTING TREE CANOPY	
EXISTING CONTOUR	
STATE WETLANDS LINE	
WATER DEPTH	2.44'x
SPOT ELEVATION	2.59

Sheet 1 of 8

Revised 2/18/16
Revised 12/15/15

PROPOSED CRABBING PIER
on ROMAN POND

INDIAN RIVER HUNDRED
SUSSEX COUNTY, DELAWARE

The Resort at Massey's Landing
RV Retreat and Campground

- PREPARED BY -

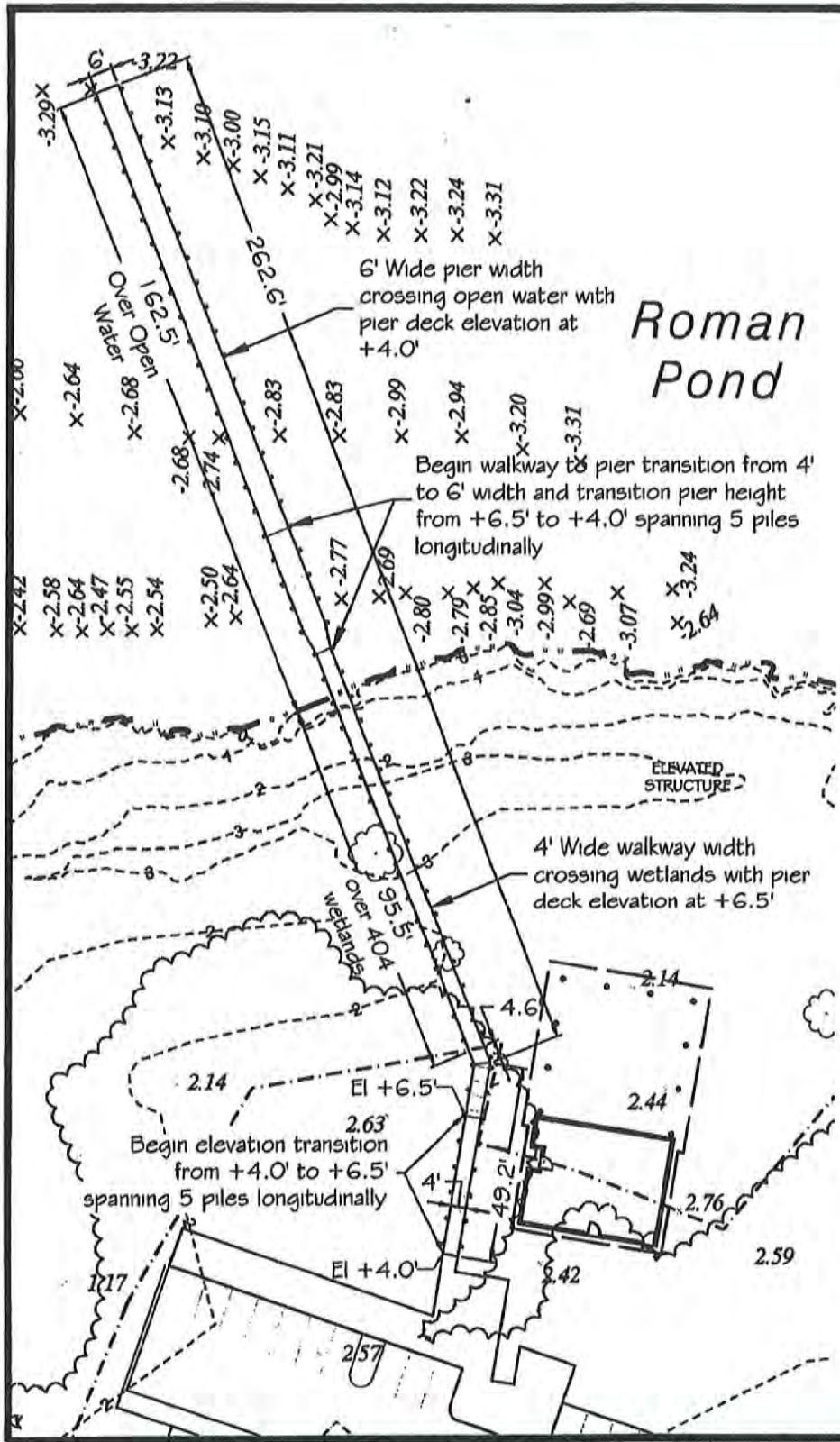


118 ATLANTIC AVENUE, OCEAN VIEW, DELAWARE 19970
PHONE: (302) 539-2366 FAX: (302) 539-2499

DRAWN BY:	WPW
CHECK BY:	JAC
FILE NAME:	Resort at Massey's Final Site 7-30-15
DATE:	9/28/15
SCALE:	1" = 40'



2016-109
E-5



NOTE:
Vertical datum is based on
NAVD 1988

Federal Jurisdiction
Determination Approval
9/28/2012

DNR Map 038

LEGEND

MHW SHORELINE	
LIMITS OF FEDERAL JURISDICTION	
EXISTING TREE CANOPY	
EXISTING CONTOUR	
STATE WETLANDS LINE	
SPOT ELEVATION	2.59

Sheet 2 of 8 Revised 2/18/16

**PROPOSED CRABBING PIER
on ROMAN POND**

INDIAN RIVER HUNDRED
SUSSEX COUNTY, DELAWARE

The Resort at Massey's Landing
RV Retreat and Campground

- PREPARED BY -

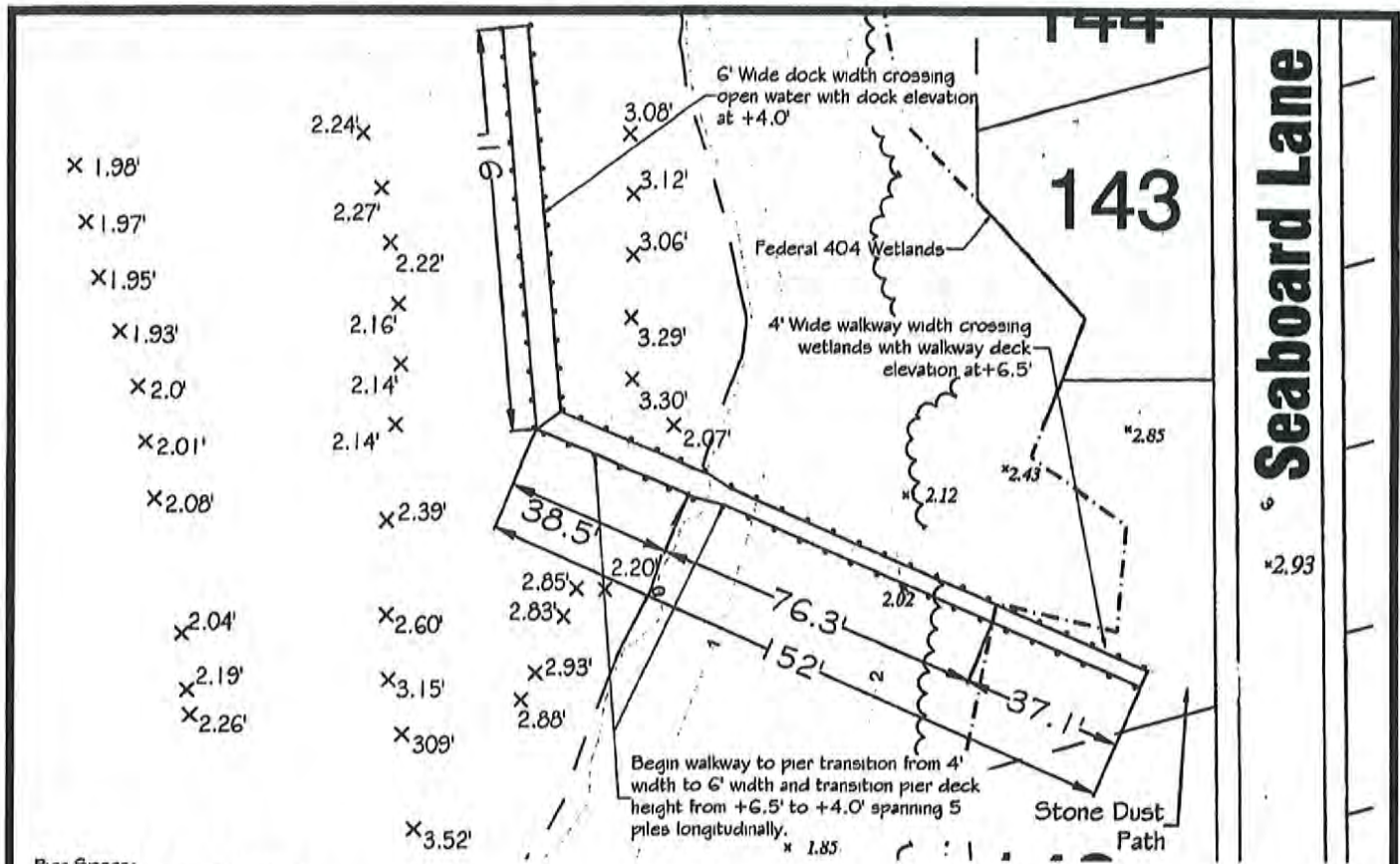
LAND TECH

LAND PLANNING, LLC

118 ATLANTIC AVENUE, OCEAN VIEW, DELAWARE 19070
PHONE: (302) 639-2368 FAX: (302) 639-2499

DRAWN BY:	WPW
CHECK BY:	JAC
FILE NAME:	Resort at Massey's Landing 7-30-15
DATE:	3/24/15
SCALE:	1" = 40'





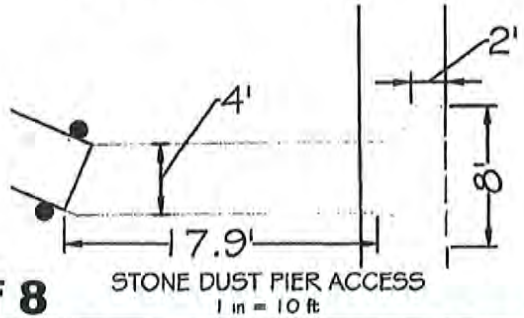
Pier Specs:

Total Length of Pier & Walkway	152'
Pier Length Over Open Water	36.5'
Number of Piles for Pier in Open Water	11
Dock Length over Open Water	91'
Number of Piles for Dock	30
Walkway Length over 404 Wetlands	76.3
Number of Piles in 404 Wetlands	24
Walkway Length Over Upland	37.1'
Number of Piles in Upland	12

- NOTES:**
- x 2.0' = depth of water at MLW and not bottom elevations. Site Specific MLW = -0.8' MHW = +0.7'
 - Vertical datum is based on NAVD 1988 (land contours & elevations only)
 - Federal Jurisdiction Determination Approval 9/28/2012
 - DNR Map 03B
 - No Delaware Jurisdictional Wetlands Impacted

LEGEND

PROPERTY LINE / APPROXIMATE MEAN LOW WATER LINE	
LIMITS OF WATERS OF THE U.S. WITH WETLAND FLAG LOCATION	
EXISTING TREE CANOPY	
CAMPSITE NUMBER	141
CAMPSITE BOUNDARY	
SPOT ELEVATION	x 1.85
WATER DEPTH	x 3.15'



Sheet 3 of 8

Revised 2/18/16
Revised 12/15/15
Revised 11/20/15

**FISHING & CRABBING PIER
INTERIOR TIDAL POOL**

INDIAN RIVER HUNDRED
SUSSEX COUNTY, DELAWARE

**The Resort at Massey's Landing
RV Retreat and Campground**

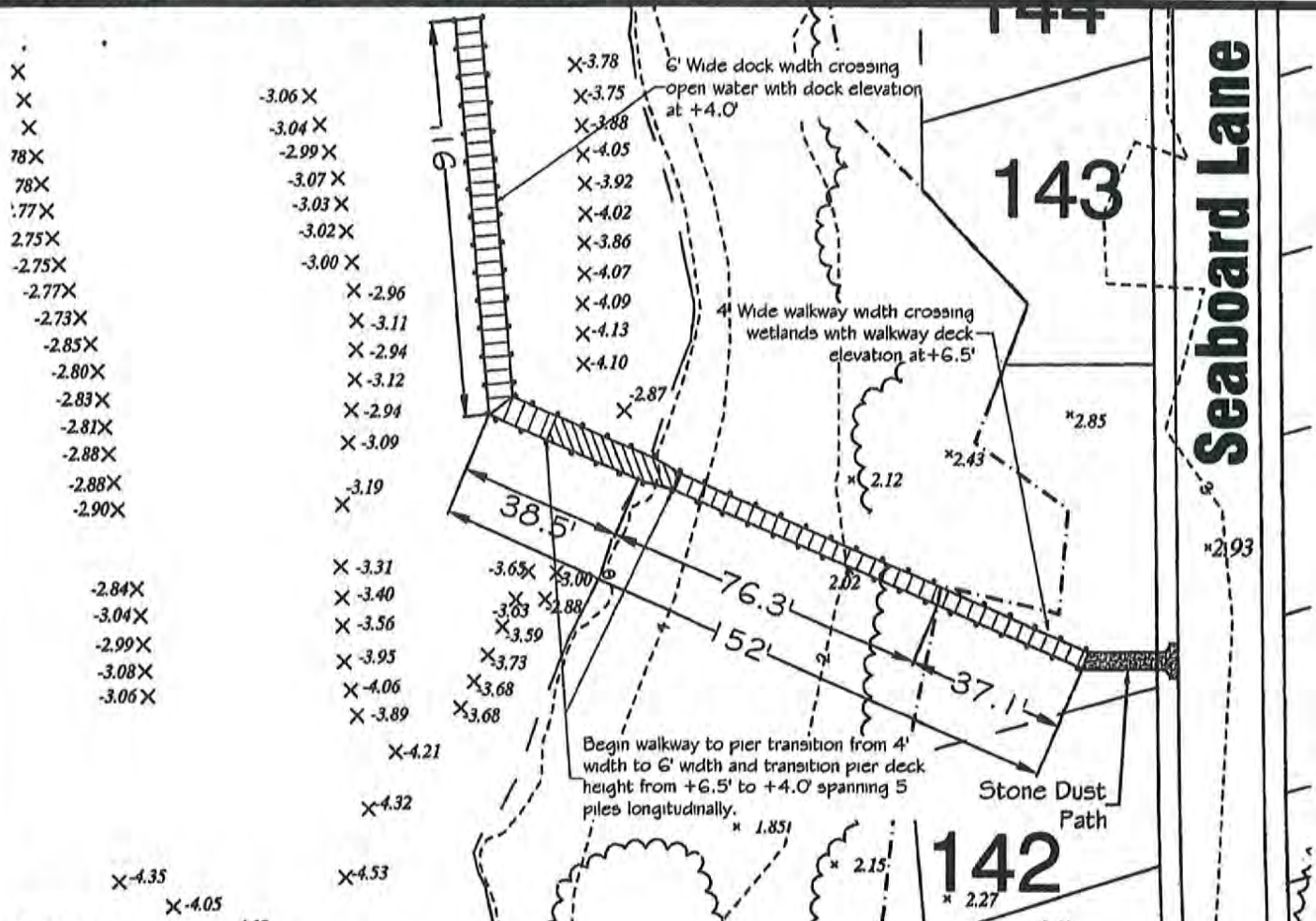
- PREPARED BY -

LAND PLANNING, LLC
118 ATLANTIC AVENUE, OCEAN VIEW, DELAWARE 19070
PHONE: (302) 539-2366 FAX: (302) 539-2489

DRAWN BY:	WPW
CHECK BY:	JAC
FILE NAME:	Resort at Massey's Final Site 7-10-15
DATE:	3/24/15
SCALE:	1" = 40'



2016-109 E-7



Notes:

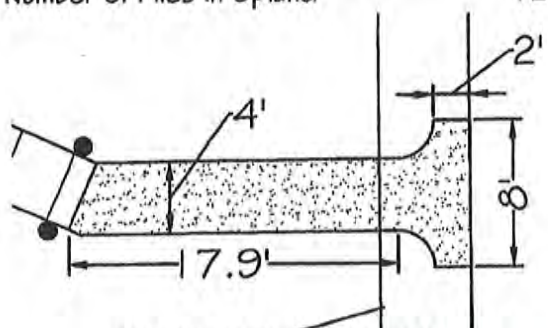
Total Length of Pier & Walkway	152'
Pier Length Over Open Water	38.5'
Number of Piles for Pier in Open Water	11
Dock Length over Open Water	91'
Number of Piles for Dock	30
Walkway Length over 404 Wetlands	76.3
Number of Piles in 404 Wetlands	24
Walkway Length Over Upland	37.1'
Number of Piles in Upland	12

Notes:

No Delaware Jurisdictional Wetlands Impacted
Vertical Datum: NAVD 1988

LEGEND

- PROPERTY LINE / APPROXIMATE MEAN LOW WATER LINE
- LIMITS OF WATERS OF THE U.S. WITH WETLAND FLAG LOCATION
- EXISTING TREE CANOPY
- CAMPSITE NUMBER 141
- CAMPSITE BOUNDARY



STONE DUST PIER ACCESS
1 in = 10 ft

Sheet 4 of 8

Revised 11/20/15
Revised 12/15/15

FISHING & CRABBING PIER
INTERIOR TIDAL POOL

INDIAN RIVER HUNDRED
SUSSEX COUNTY, DELAWARE

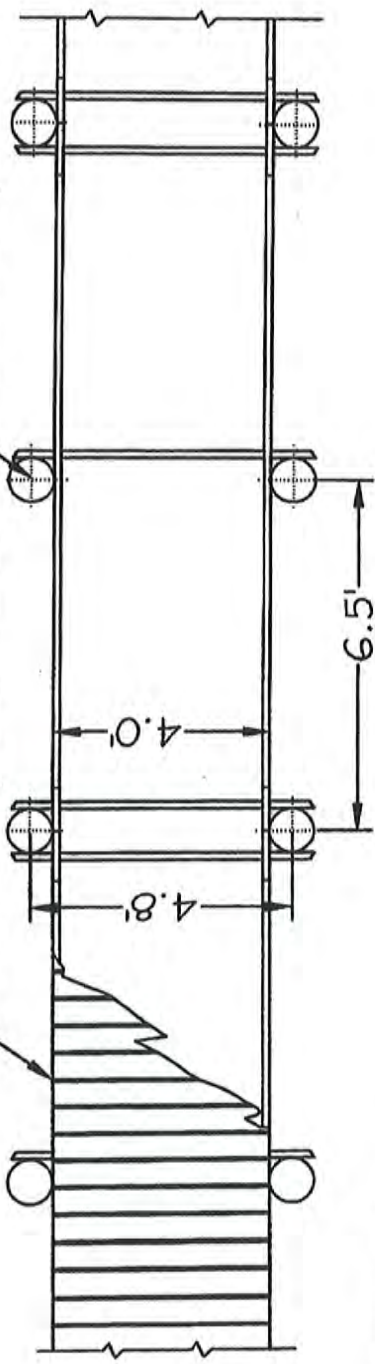
The Resort at Massey's Landing
RV Retreat and Campground

- PREPARED BY -
LAND TECH
LAND PLANNING, LLC
118 ATLANTIC AVENUE, OCEAN VIEW, DELAWARE 19970
PHONE: (302) 539-2366 FAX: (302) 539-2499

DRAWN BY:	WPW
CHECK BY:	JAC
FILE NAME:	Resort at Massey's Final Site 7-10-15
DATE:	3/24/15
SCALE:	1" = 40'



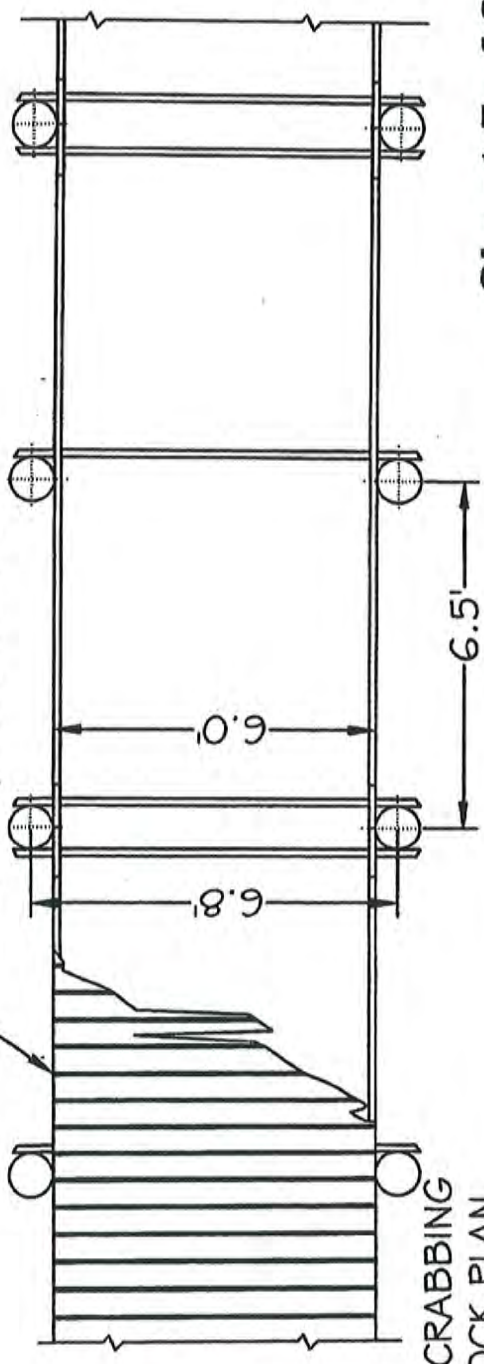
#1 Grade 2" x 8" Decking
w/ 1/2" Gap Between Boards



WALKWAY PLAN

10" Diameter Butt Pile
Driven Large End Down

#1 Grade 2" x 8" Decking
w/ 1/2" Gap Between Boards



FISHING / CRABBING
PIER & DOCK PLAN

Sheet 5 of 8

Revised 12/15/15

2016-109
E-9

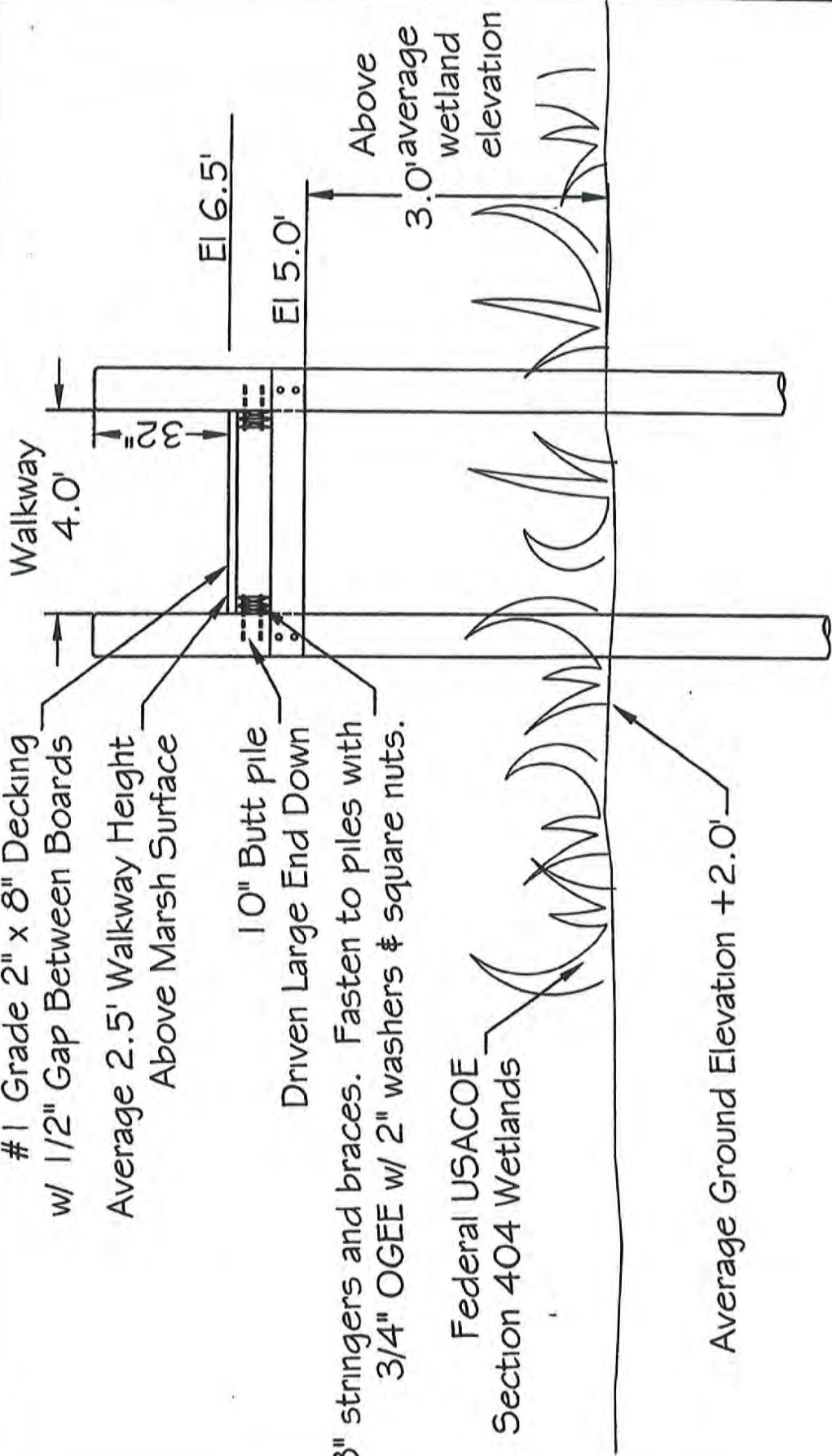
TYPICAL WALKWAY, PIER
& DOCK PLAN
INDIAN RIVER HUNDRED
SUSSEX COUNTY, DELAWARE
The Resort at Massey's Landing
RV Retreat and Campground

PREPARED BY
WILCOX
LAND PLANNING, LLC
118 ATLANTIC AVENUE, OCEAN VIEW, DELAWARE 19970
PHONE: (302) 539-2366 FAX: (302) 539-2499

DRAWN BY:	WPW
CHECK BY:	JAC
FILE NAME:	Resort at Massey's Landing 7-30-15
DATE:	9/2/15
SCALE:	no scale



#1 Grade 2" x 8" Decking
w/ 1/2" Gap Between Boards
Average 2.5' Walkway Height
Above Marsh Surface
10" Butt pile
Driven Large End Down
2"x8" stringers and braces. Fasten to piles with
3/4" OGEE w/ 2" washers & square nuts.



Federal USACOE
Section 404 Wetlands

Average Ground Elevation +2.0'

Above
3.0' average
wetland
elevation

EI 6.5'
EI 5.0'

Revised 12/15/15

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E-9

TYPICAL FEDERAL WETLAND
WALKWAY SECTION
INDIAN RIVER HUNDRED
SUSSEX COUNTY, DELAWARE
The Resort at Massey's Landing
RV Retreat and Campground

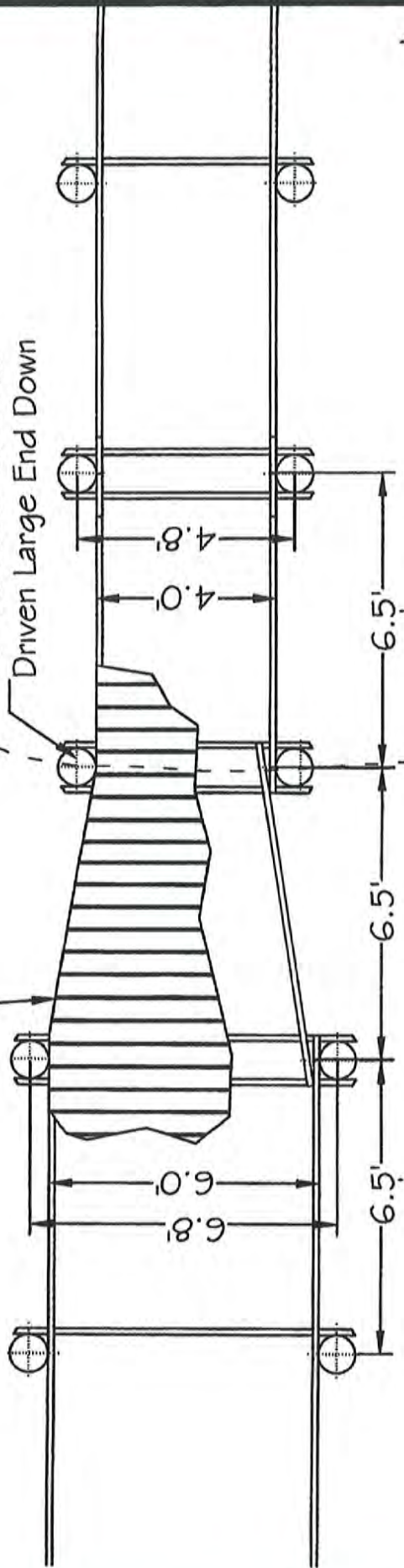
- PREPARED BY -
WATTECH
LAND PLANNING, LLC
116 ATLANTIC AVENUE, OCEAN VIEW, DELAWARE 19970
PHONE: (302) 539-2366 FAX: (302) 539-2499

DRAWN BY:	WPW
CHECK BY:	JAC
FILE NAME:	Resort at Massey's Landing 7-30-15
DATE:	9/2/15
SCALE:	NO SCALE



#1 Grade 2" x 8" Decking
w/ 1/2" Gap Between Boards

10" Diameter Butt Pile
Driven Large End Down



FISHING / CRABBING PIER ← Channelward

Landward → WALKWAY

← MHW Shoreline

Revised 12/15/15

Sheet 7 of 8

2016-109
E-10

TYPICAL HORIZONTAL
WALKWAY TO PIER TRANSITION

INDIAN RIVER HUNDRED
SUSSEX COUNTY, DELAWARE

The Resort at Massey's Landing
RV Retreat and Campground

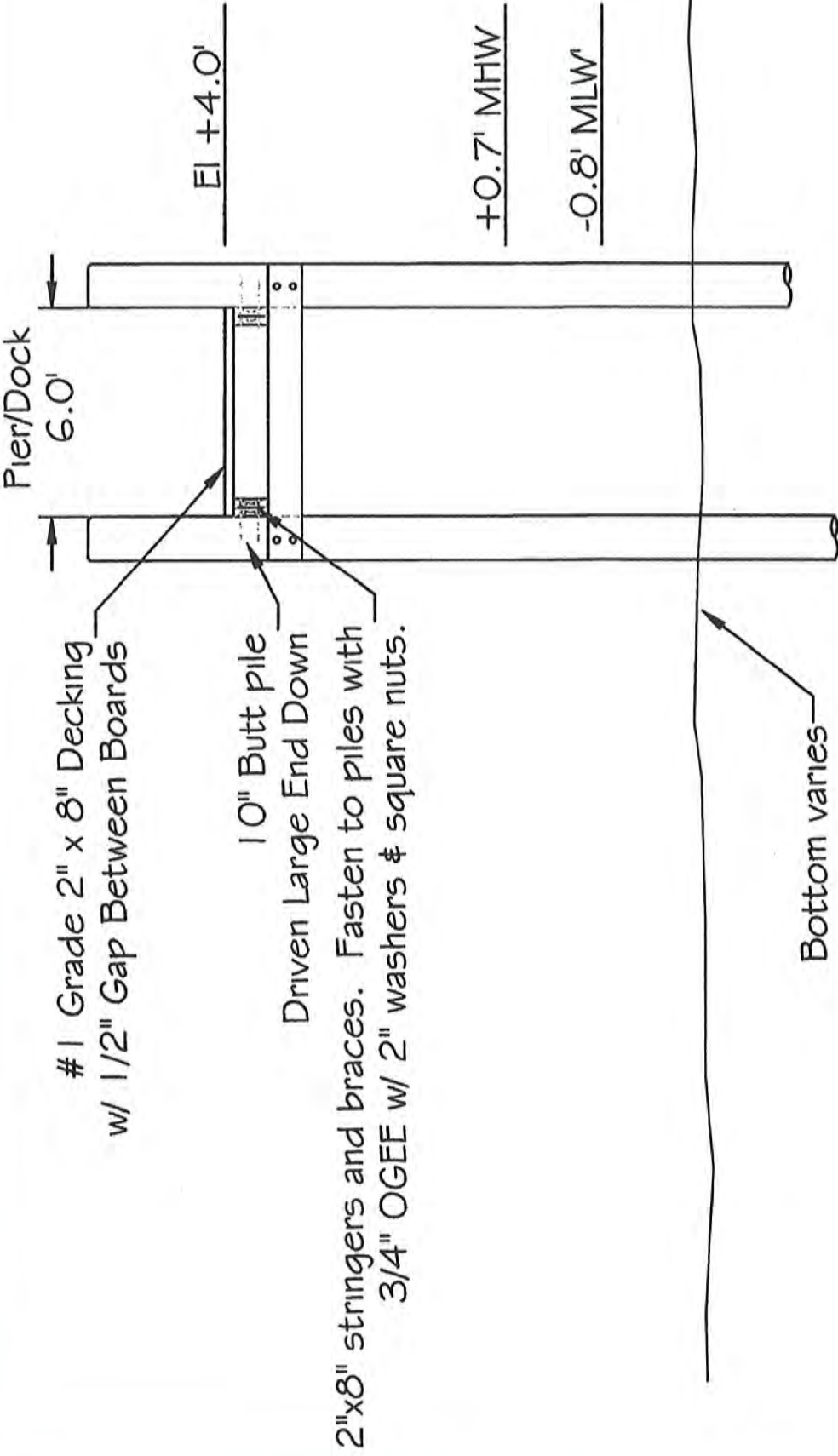
- PREPARED BY -



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PHONE: (302) 539-2366 FAX: (302) 539-2499

DRAWN BY:	WPW
CHECK BY:	JAC
FILE NAME:	Resort at Massey's Landing 7-30-15
DATE:	9/2/15
SCALE:	no scale





Pier/Dock
6.0'

El +4.0'

+0.7' MHW

-0.8' MLW

#1 Grade 2" x 8" Decking
w/ 1/2" Gap Between Boards

10" Butt pile
Driven Large End Down
2"x8" stringers and braces. Fasten to piles with
3/4" OGEE w/ 2" washers & square nuts.

Bottom varies

Revised 2-18-15
Revised 12-15-15

Sheet 8 of 8

2016-109

E-11

- PREPARED BY -



118 ATLANTIC AVENUE, OCEAN VIEW, DELAWARE 19970
PHONE: (302) 539-2366 FAX: (302) 539-2499

DRAWN BY: W P W

CHECK BY: JAC

FILE NAME: Resort at Massey's
Final Site 7-30-15

DATE: 9/2/15

SCALE: no scale



TYPICAL FISHING &
CRABBING PIER / DOCK SECTION

INDIAN RIVER HUNDRED
SUSSEX COUNTY, DELAWARE

The Resort at Massey's Landing
RV Retreat and Campground