



**US Army Corps  
of Engineers®**  
**Philadelphia District**

# Public Notice

Public Notice No.  
**CENAP-OP-R-2018-593**

Date  
**August 27, 2018**

Application No.  
**CENAP-OP-R-2018-593**

File No.  
**CENAP-OP-R-2018-593-85**

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:** Nanticoke Shores Associates, LLC

**AGENT:** Evelyn M. Maurmeyer, Ph.D., Coastal and Estuarine Research, Inc.

**WATERWAY:** Wilson Creek

**LOCATION:** Rehoboth Shores Campground, Bay Breeze Lane, Long Neck, Millsboro, Sussex County, Delaware Tax Map Parcel 2-34-24.00-35.00 (Lat.38.633324° N/Long.-75.137519° W).

**ACTIVITY:** The applicant, Nanticoke Shores Associates, LLC has requested a Department of the Army permit to construct a 130' x 4' elevated walkway over wetlands, transitioning to a 67' x 6' fixed pier with an 8' x 24' fixed dock over open water. The applicant is also proposing to construct a 12' x 6' floating kayak dock on the east side of the fixed pier and installing 2 free standing pilings on the west side of the fixed pier. The proposed work will occur in Wilson Creek, within the Rehoboth Shores Campground, accessed via Bay Breeze Lane in Long Neck, Millsboro, Sussex County, Delaware. The dimensions of the structures are indicated on the attached plans identified as E-1 through E-5.

**PURPOSE:** The purpose of the project is to provide fishing and crabbing facilities as well as kayak/canoe launch facilities for campground users.

On April 10, 2008, the U.S. Army Corps of Engineers (USACE) 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 impacts to wetlands. In addition, the structures have been designed to the minimum sizes necessary to support recreational crabbing and fishing and to allow adequate water depths for kayak/canoe launching from the floating dock. Furthermore, the structure is proposed to be situated in the narrowest extent of the wetlands. Because no wetlands or other special aquatic sites would be impacted by the project, the applicant is not proposing to conduct any compensatory mitigation for the work.

A preliminary review of this application indicates that species listed under the Endangered Species Act (ESA) or their critical habitat pursuant to Section 7 of the ESA as amended, may be present in the action area. Specifically, Swamp pink (*Helonias bullata*) is identified on the species list generated by the United States Fish and Wildlife Service (USFWS) Information for Planning and Consultation website. The USACE will forward this PN to the USFWS 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. The Philadelphia District will evaluate the potential effects of the proposed actions on ESA listed species or their critical habitat and will consult with the USFWS as appropriate. ESA Section 7 consultation will be concluded prior to the final decision on this permit application.

All waters along the Mid-Atlantic region, including tidal rivers and streams and coastal estuaries have been identified by the National Marine Fisheries Service as being within the estimated range of the five distinct population segments of the Atlantic Sturgeon, which are listed as threatened or endangered pursuant to the Endangered Species Act. Based upon the existing conditions, this area is not expected to be utilized by the Atlantic Sturgeon or any other threatened or endangered species under the responsibility of the National Marine Fisheries Service. Furthermore, the Delaware Division of Fish and Wildlife has conducted trawl surveys from April through October at 12 sample stations within the Indian River, Indian River Bay, and the Rehoboth Bay since 1986 without a sturgeon ever being recorded. In addition, seasonal restrictions would be implemented to avoid and minimize effects to the Rehoboth Bay. The coastal waters of Delaware are also utilized by marine mammals and sea turtles. The water depths and conditions within the project site are considered too shallow and disturbed for utilization by any federally listed marine mammals. Further, these waterways would offer little or no foraging value for any federally listed sea turtles.

The Magnuson-Stevens Fishery Conservation and Management Act requires all federal agencies to consult with the National Oceanic and Atmospheric Administration (NOAA), Fisheries on 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. The Philadelphia District will evaluate the potential effects of the proposed actions on EFH and will consult with NOAA Fisheries as appropriate. Consultation will be concluded prior to the final decision on this permit application.

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.

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 D. Yost at (267) 240-5278, by email at [michael.d.yost@usace.army.mil](mailto:michael.d.yost@usace.army.mil) or by writing this office at the above address.

Edward E. Bonner  
Chief, Regulatory Branch



PROPOSED 75' x WALKWAY; 67' X 6' PIER;  
8' X 24' DOCK; 2 FREE-STANDING PILINGS; AND  
6' X 12' FLOATING KAYAK DOCK

IN: Wilson Marsh and Wilson Creek, Rehoboth Bay  
AT: Rehoboth Shores Campground, Long Neck,  
Millsboro, Sussex Co., DE 19966  
Tax Map Parcel #2-34-24.00-35.00

APPLICANT: Nanticoke Shores Associates, LLC  
DATE: June 20, 2018

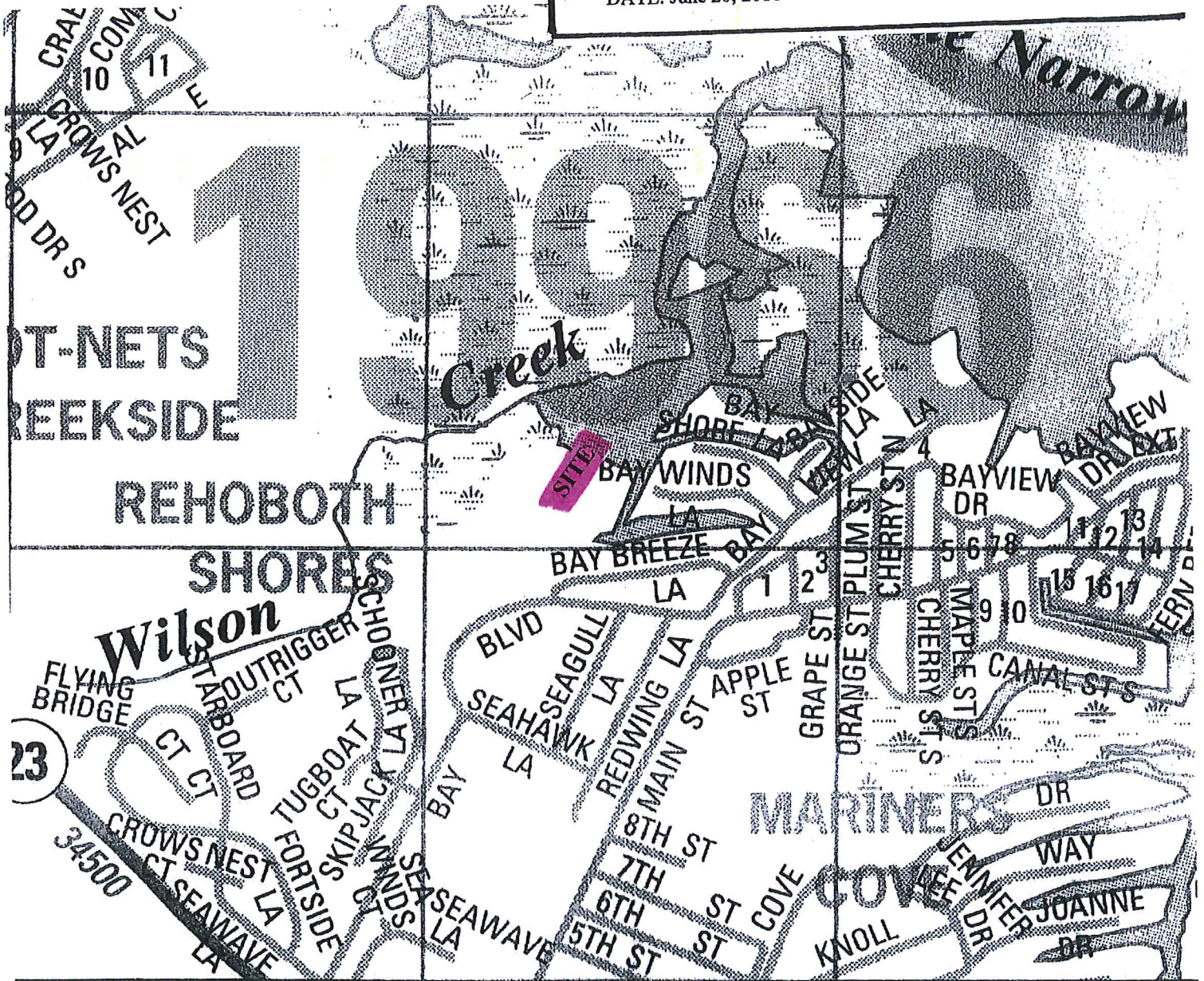


Figure 3. Street map showing project site, campground area (under construction) off of Bay Breeze Lane, Rehoboth Shores.



**PROPOSED 75' x 4' WALKWAY; 67' x 6' PIER;  
8' x 24' DOCK; 2 FREE-STANDING PILINGS; AND  
6' x 12' FLOATING KAYAK DOCK**

IN: Wilson Marsh and Wilson Creek, Rehoboth Bay  
AT: Rehoboth Shores Campground, Long Neck,  
Millsboro, Sussex Co., DE 19966  
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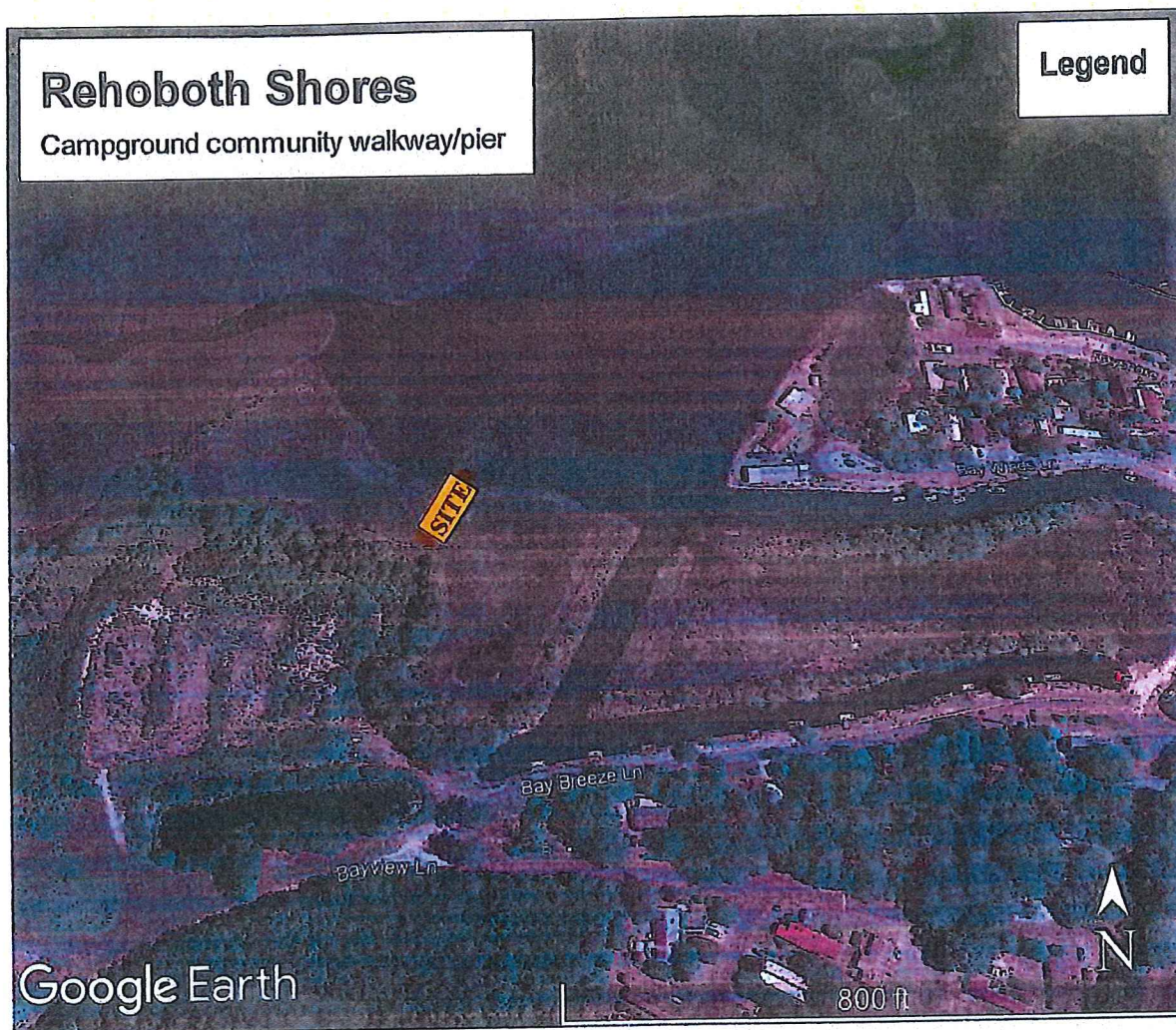


Figure 7.

GoogleEarth® 2017 aerial photograph of project site, Rehoboth Shores, Long Neck, Millsboro, Sussex County, Delaware (adjacent to Wilson Creek, a tributary of Rehoboth Bay). Campground (under construction) is located in cleared and wooded uplands. Proposed activity consists of construction of a 75' x 4' elevated walkway over tidal wetlands; 67' x 6' fixed pier; 8' x 24' fixed dock and two free-standing pilings; and 6' x 12' floating kayak dock. See Figure 9 for plan view, and Figure 10 for cross-section sketches.

E-3

air photo view sketch (1" = 24')

WILSON CREEK  
(adj. to Rehoboth Bay)

PROPOSED 75' X 6' WALKWAY; 67' X 6' PIER;  
8' X 24' DOCK; 2 FREE-STANDING PILINGS; AND  
6' X 12' FLOATING KAYAK DOCK  
IN: Wilson Marsh and Wilson Creek, Rehoboth Bay  
AT: Rehoboth Shores Campground, Long Neck,  
Millsboro, Sussex Co., DE 19966  
Tax Map Parcel #2-34-24.00-35.00  
APPLICANT: Nanticoke Shores Associates, LLC  
DATE: June 20, 2018

(6) DETAIL (1" = 10')

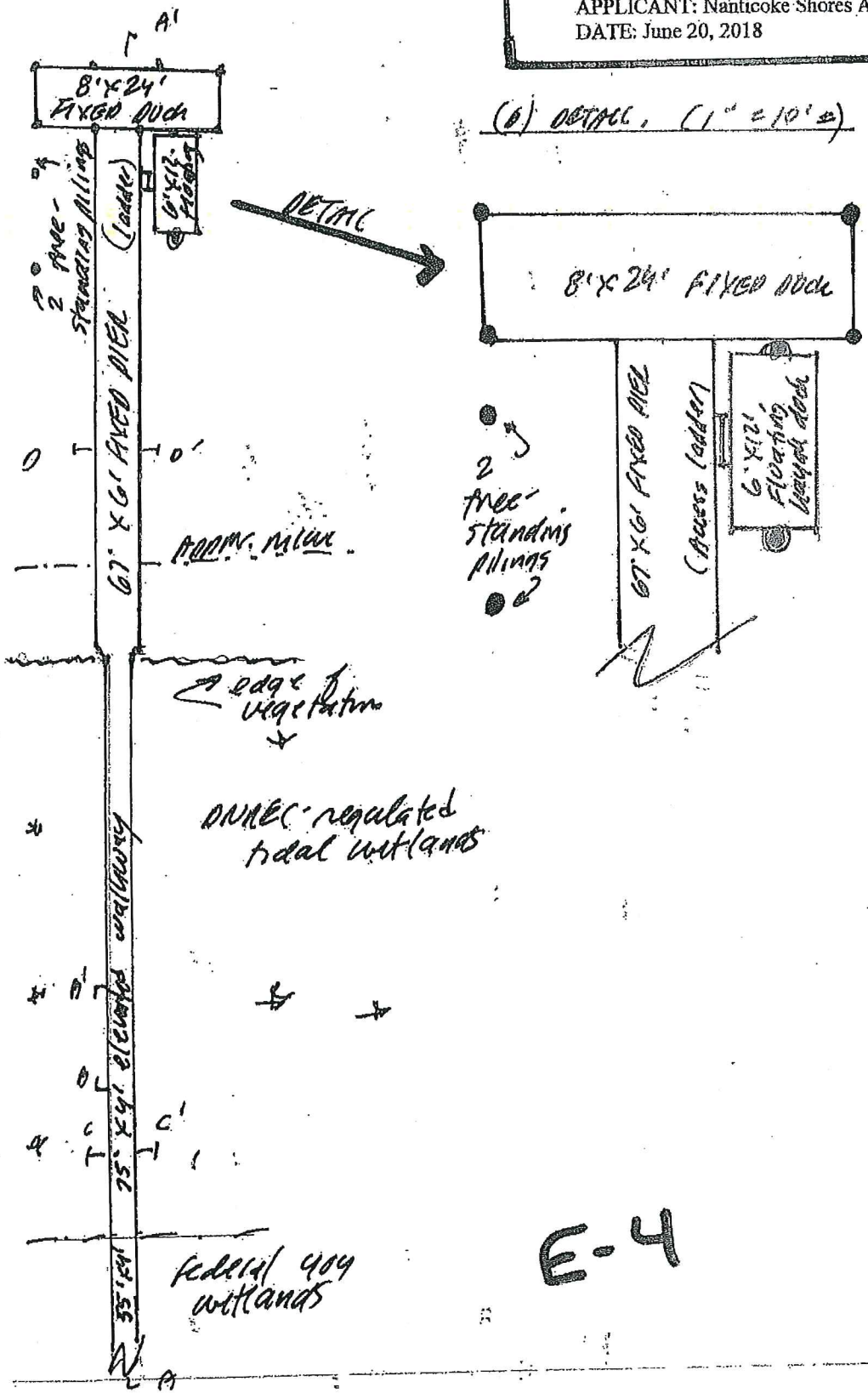


Figure 9 Plan view of proposed project. Sketch for permit application purposes only, not for construction



PROPOSED 75' x 4' WALKWAY; 67' X 6' PIER;  
8' X 24' DOCK; 2 FREE-STANDING PILING; AND  
6' X 12' FLOATING KAYAK DOCK

IN: Wilson Marsh and Wilson Creek, Rehoboth Bay  
AT: Rehoboth Shores Campground, Long Neck,  
Millsboro, Sussex Co., DE 19966

Tax Map Parcel #2-34-24.00-35.00  
APPLICANT: Nanticoke Shores Associates, LLC  
DATE: June 20, 2018

(A) LONGITUDINAL CROSS-SECTION (1" = 20' @)

Wilson Marsh

Elevated walkway over BRUC - regulars wetlands

SEE DETAIL BELOW

67' X 6' COMMUNITY PIER

8' X 24' DOCK

WILSON CREEK

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(B) LONGITUDINAL CROSS-SECTION DETAIL, WALKWAY (1" = 3' @)

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(C) TRANSVERSE CROSS-SECTION (1" = 3' @)

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(D) TRANSVERSE CROSS-SECTION, PIER (1" = 3' @)

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Figure 10. Cross-section sketches of proposed project. Sketches for permit application purposes only.



## PERMITS AND TECHNICAL SERVICES SECTION

### Pre-Application Log Sheet

DEP Engineer(s): Govind DaryaniDEP Biologist(s): Jason Oseredzuk ACOE: Dave CaplanDate: 08/23/2018 Location: SERO, Skippack Creek, 3<sup>rd</sup> Floor (Near Garage Exit)

Time	Applicant	Contact Person	Phone No.	Project	Twp./Co.	Remark
9:00	Kimberly Clark	Nathan Walker-Wood PLC	610-877-6037	Structure Demolitions on the Delaware River	Chester Twp. Delaware Co.	
10:00	DDHD Holdings, LLC	Chris Daily-D.L. Howell and Associates, Inc.	610-918-9002	7 Lot Subdivision	Upper Providence Twp. Montgomery County	Possible Waived Activity. Question of Jurisdiction
11:00	Andrew Klimenko	Melanie Aroniss-Dumack Engineering	215-598-1230	Single Family Home Construction in Assumed Floodway	Northampton Twp. Bucks Co.	Would Require JP-May Not Be Considered Water Dependent
12:00						
1:00	Cobbs Creek Golf Course-John Burns	Land Studies	717-627-4440	Stream Restoration Project	Philadelphia, PA	
2:00						