



**DEPARTMENT OF THE ARMY**  
**CORPS OF ENGINEERS, JACKSONVILLE DISTRICT**  
**701 SAN MARCO BOULEVARD**  
**JACKSONVILLE, FLORIDA 32207-8175**

**December 04, 2024**

Regulatory Division  
West Branch  
Fort Myers Permits Section

***PUBLIC NOTICE***

Permit Application No. SAJ-2024-00096 (SP-MLT)

**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:** Michael Ilczyszyn  
City of Cape Coral  
Post Office Box 150027  
Cape Coral, Florida 33915

**WATERWAY AND LOCATION:** The project would affect waters of the United States, including wetlands, associated with the Gulf Gateway Resort & Marina Village proposed development on the North Spreader Waterway in the North Matlacha Pass Frontal Watershed (HUC 8: 03100103). The project site is located in northwest Cape Coral commonly referred to as the Seven Islands. The land is owned by the city and is located on the east side of the northwest spreader waterway, west of Old Burnt Store Road and north of Pine Island Road.in Sections 12 and 13, Township 44 South, Range 22 East, Cape Coral, Lee County, Florida.

Directions to the site are as follows: From Fort Myers cross the Edison Bridge (US Highway 41) going North. Turn left on Pondella Road. Turn Left on NE Pine Island Road. Turn right on Nicholas Parkway. Turn right on Burnt Store Road. The project site is adjacent to 200 Old Turn left on Embers Parkway. When Embers Parkway ends at a T-intersection with Old Burnt Store Road, the project will be adjacent to Old Burnt Store Road in the North Spreader Waterway.

**APPROXIMATE CENTRAL COORDINATES:** Latitude 26.65764  
Longitude -82.05721

**PROJECT PURPOSE:**

Basic: Residential and commercial development

Overall: To create a mixed use residential, commercial, and recreational development to include boating access to stimulate development within northwest Cape Coral.

**EXISTING CONDITIONS:** The proposed project area is a series of 7 undeveloped man-made islands on the east side of the North Spreader Canal. Each island has an earthen causeway access road to the mainland of Cape Coral. The entire project footprint consists of saltwater forested wetlands and uplands. Based on a review of historic aerial photography, the property had been in its current state since 1985.

The shorelines surrounding the island and defining the interior canal system are a mix of exotic plant species like Brazilian Pepper, Australian Pine, Java Plum, and Melaleuca. Wetland native plant species are mostly the three types of mangroves, with red mangrove the dominant plant, followed by white mangroves. Additional native plant species along the embankment include Cabbage Palms, Seagrapes, Prickly Pear, Slash Pines, Live Oak, and Buttonwood. The shoreline is well defined with a visible top of bank that drops off rapidly into a very narrow wetland band, particularly in the interior of the canal system. The mangrove fringe on the spreader waterway is wider based on long term erosion flattening the shoreline.

#### **PROPOSED WORK:**

**Seawalls -** The project consists of placement of a total of 19,064 linear feet (3.62 miles) of vertical seawall and retaining wall combined for all seven islands. For areas with the densest mangrove fringe, the retaining wall/seawall will be constructed landward of the fringe, following the top of the bank alignment surveyed by Stantec. This is applicable to the entirety of the shoreline fronting the spreader waterway and most of the inlets to the interior canal system. The fill associated with the seawalls was calculated landward from the seawall alignment to the landward limit of agency jurisdiction, typically the landward limit of wetland plant species or the seasonal high water line. Fill volumes were calculated based on the end area formula and average fill height. The total fill area is 123,830 square feet (2.84 acres) and the fill volume is 12,284 cubic yards.

**Dredging –** Dredging is proposed as a function of installing box culverts in the causeways that lead to each island. This will eliminate the dead end canal conditions and poor water quality that exists in the interior waterway. The box culverts will be 20' wide by 10' tall, with an invert elevation of -5' MLW to allow unencumbered access by manatees and flow through conditions driven by the ebb dominant flows in the spreader waterway. Dredging on each end of each culvert will extend out to the -5' MLW contour. A total of 1,231 cubic yards of material will be removed from state waters to facilitate the box culvert installations. The dredged material will be placed in trucks and hauled to the interior of the islands as fill to level the site. A bermed area to contain the dredged material will be constructed in the interior of each island. Dredged spoils will be distributed over the site. An average of 176 cubic yards will be placed in the interior of the island covering an area approximately 50' by 50' by 2' high. Silt screens will be placed on the outside of the bermed areas until the dredged material is distributed over the site.

**Docks –** Exclusive of Fish Houses, which are single family residential docks that will be permitted by each owner, the majority of the permanent wet slips are located in the

spreader waterway for water quality purposes. This is the main waterway and subject to tidal influences through the mangrove system to the west via seventeen documented breaches and the direct connection to Matlacha Pass to the south. In addition, during the summer rainy season, the site is subject to freshwater discharges from the upland watersheds that include Yucca Pen, Durden Slough, Gator Slough, and 60 miles of salt and freshwater canals in the northwest Cape Coral. The following is a breakdown by island of the proposed docks.

#### Island 1

Fixed wood access docks @ 3,390 square feet.

Finger Piers (23) fixed wood @ 3,216 square feet.

Dock piling, 10" diameter (342) @ 187 square feet.

Mooring pilings, 12" diameter (52) @ 41 square feet.

Floating docks @ 1,720 square feet.

Anchor piling, 18" diameter (6) @ 11 square feet.

Gangways (3) @ 450 square feet.

Box culvert dredging @ 3,783 square feet./0.08 acres/171 cubic yards.

#### Island 2

Fixed wood access docks @ 2,205 square feet.

Finger Piers (14) fixed wood @ 1,820 square feet.

Dock piling, 10" diameter (196) @ 108 square feet.

Mooring pilings, 12" diameter (32) @ 25 square feet.

Floating docks @ 1,480 square feet.

Anchor piling, 18" diameter (5) @ 9 square feet.

Gangways (1) @ 150 square feet.

Box culvert dredging @ 2,081 square feet./0.05 acres/231 cubic yards.

#### Island 3

Floating docks @ 2,280 square feet.

Anchor piling, 18" diameter (7) @ 12 square feet.

Gangways (1) @ 150 square feet.

Box culvert dredging @ 3,235 square feet./0.07 acres/218 cubic yards.

#### Island 4

Floating docks @ 2,280 square feet.

Anchor piling, 18" dia., (7) @ 12 square feet.

Gangways (1) @ 150 square feet.

Box culvert dredging @ 1,970 square feet./0.04 acres/176 cubic yards.

#### Island 5

Fixed wood access docks @ 48 square feet.

Dock piling (20) @ 11 square feet.

Fender piling (8) @ 7 square feet.

Floating docks @ 8,640 square feet.

Anchor piling, 18" diameter (11) @ 20 square feet.

Gangways (6) @ 900 square feet.

Box culvert dredging @ 1,328 square feet./0.03 acres/119 cubic yards.

#### Island 6

Fixed wood access docks @ 2,425 square feet.

Finger Piers (23) fixed wood @ 1,680 square feet.

Dock piling, 10" diameter (200) @ 109 square feet.

Mooring pilings, 12" diameter (30) @ 24 square feet.

Fender piling (4) @ 3 square feet.

Bridge @ 1,164 square feet.

Bridge piling (33) @ 26 square feet.

Floating docks @ 5,790 square feet.

Anchor piling, 18" diameter (19) @ 34 square feet.

Gangways (5) @ 675 square feet.

Box culvert dredging @ 1,550 square feet./0.03 acres/172 cubic yards.

#### Island 7

Fixed wood access docks @ 2,650 square feet.

Finger Piers (14) fixed wood @ 1,680 square feet.

Dock piling, 10" diameter (223) @ 121 square feet.

Mooring pilings, 12" diameter (30) @ 24 square feet.  
Fender pilings (6) @ 5 square feet.  
Bridge @ 1,200 square feet.  
Bridge pilings (33) @ 26 square feet.  
Floating docks @ 4,906 square feet.  
Anchor piling, 18" diameter (16) @ 28 square feet.  
Gangways (8) @ 989 square feet.  
Box culvert dredging @ 1,296 square feet./0.03 acres/144 cubic yards.

#### Totals

Fixed wood access docks @ 10,718 square feet.  
Finger Piers (74) fixed wood @ 8,396 square feet.  
Dock piling, 10" diameter (981) @ 536 square feet.  
Mooring pilings, 12" diameter (144) @ 114 square feet.  
Fender piling, 12" diameter (18) @ 15 square feet.  
Bridges (2) @ 2,364 square feet.  
Bridge pilings (66) @ 52 square feet.  
Floating docks @ 27,096 square feet.  
Anchor piling (100) @ 126 square feet.  
Gangways (18) @ 2,700 square feet.  
Box culvert dredging @ 11,460 square feet./0.26 acres/1,231 cubic yards.

#### Boat Slips

The Lee County Manatee Protection Plan is applicable to this site, based on 1 slip per 100 linear feet of shoreline. The initial assessment submitted by the city to Lee County resulted in a total of 201 slips for the site. A subsequent survey by Stantec shows 20,869 linear feet constitute the entire project shoreline. That would allow for 209 slips total.

The project design removes approximately 2,880 linear feet of shoreline from the project development, to be set aside as single family homesites on deeded, individual lots. Section 8.4. of the MPP states: "Single family residential docks are excluded from the MPP assessment process.

The remaining 17,989 linear feet of shoreline will constitute the marine component of the development. The resulting number of boat slips allowed would be 180. These slips

are all located on the Spreader Waterway specifically for navigation and water quality purposes and will be either resident owned, rented, or commercially leased boat slips.

Within the interior canal system of Island 5, 6, & 7 is 1,534 linear feet of floating docks. These slips will function as temporary mooring (no overnight dockage) and service the seven commercial facilities on the upland, typically restaurants and commercial shops. These docks will not serve as a point of original potentially conflicting with manatees but will instead function as parking spaces for boaters in the area choosing to shop or dine via boats that will typically original from residences in the interior of the northwest Cape Coral canal system.

**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 applicant agrees to comply with the November 2017 “National Marine Fisheries Service’s (NMFS) recently issued Final Programmatic Biological Opinion (referred to as JAXBO) for In-Water Work”; 2011 Standard Manatee Construction Conditions for In-water Construction and the Sea Turtle and Smalltooth Sawfish Construction Conditions of March 2006. All applicable work condition information for protected species will be provided to the selected contractor(s).

Weighted turbidity curtains will be deployed around all working areas. Turbidity curtains are proposed around the in-water work sites to control turbidity from entering the surrounding water bodies. Turbidity curtains will be used to surround the work being done and are to be advanced as the work advances but not before turbidity levels have subsided below state standards (29 NTU’s above background). Turbidity will be visually monitored, and the turbidity control measures will be maintained until all construction is complete. Background turbidity samples will be taken 200’ upstream from the most upstream limit of the turbidity curtain during flood tide and 200’ downstream of the most downstream limit of the curtain during ebb tide. Turbidity monitoring sample locations immediately adjacent to the turbidity screen will be taken on not more than a 300’ spacing. Silt curtains will also be utilized for all upland construction activities that may result in run off into the canal system. In addition, silt curtains will surround the temporary storage areas for the dredged materials placed in the middle of the islands until the material has dried and can be spread out on the site.

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

Using Aerial Drone photo, ground photos, and on-site mapping, an assessment of the impact areas was completed. An assessment for the Little Pine Island Mitigation Bank (LPIMB) was completed to determine mitigation credits. A total of 3.45 acres of predominantly mangrove wetlands will be directly impacted (3.32 acres removed, 0.09 acres voids, 0.44 acres) predominantly with the interior seawalls constructed to follow

the property lines as mandated by City of Cape Coral Land Development Code requirements. While mangroves in the interior canals are not as dense or healthy as those on the spreader waterway, they are viable and are accounted for based on the density relative to the exotic vegetation along the shoreline. The LPIMB assessment results in the need to purchase 2.45 forested saltwater mitigation credits.

The Corps has not finalized its review of the applicant's proposed mitigation. The Corps notes that the project may be within the service area of at least one Corps-approved mitigation bank.

#### CULTURAL RESOURCES:

The Corps is not aware of recorded historic resources within or adjacent to the permit area and is evaluating the undertaking for effects to historic properties as required under Section 106 of the National Historic Preservation Act. This public notice serves to inform the public of the proposed undertaking and invites comments including those from local, State, and Federal government Agencies with respect to historic resources. Our final determination relative to historic resource impacts may be subject to additional coordination with the State Historic Preservation Officer, those federally recognized tribes with concerns in Florida and the Permit Area, and other interested parties.

#### ENDANGERED SPECIES:

The project is within the consultation areas for the loggerhead sea turtle, Kemp's Ridley sea turtle, green sea turtle, within the core foraging area of at least one wood stork colony and within critical habitat of the smalltooth sawfish and the West Indian manatee.

The Corps has determined that the project is likely to adversely affect (LAA) the West Indian manatee and the critical habitat of the smalltooth sawfish and may affect but is not likely to adversely affect (MANLAA) the loggerhead sea turtle, Kemp's Ridley sea turtle, green sea turtle, and the wood stork.

**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. Our initial determination is that the proposed action would not have no substantial adverse impact on EFH or Federally managed fisheries in the Gulf of Mexico or North Spreader Waterway. 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.

**SECTION 408:** The applicant will not require permission under Section 14 of the Rivers and Harbors Act (33 USC 408) because the activity, in whole or in part, would not 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 regulations governing the regulatory program. The jurisdictional line has not been verified by Corps personnel.

COMMENTS regarding the potential authorization of the work proposed should be submitted in writing to the attention of the project manager, Michael Taylor, through the Fort Myers Permits Section, 1520 Royal Palm Square Blvd, Suite 310, Fort Myers, FL 33919 by email at [Michael.L.taylor@usace.army.mil](mailto:Michael.L.taylor@usace.army.mil) within 30 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, Michael Taylor, by electronic mail at [Michael.L.Taylor@usace.army.mil](mailto:Michael.L.Taylor@usace.army.mil); by telephone at (239) 922-3885, or in writing at the Fort Myers Permits Section, 1520 Royal Palm Square Blvd, Suite 310, Fort Myers, FL 33919.

**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.

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.

**WATER QUALITY CERTIFICATION:** Water Quality Certification may be required from the South Florida Water Management District.

**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.

3,000' 0' 1,500'



SCALE FEET



*Not To Scale*



SCALE: 1" = 3,000'

January 05, 2024 10:11:55 a.m.  
Drawing: FOREST1MASTER.DWG



HJMW

*SHEET*

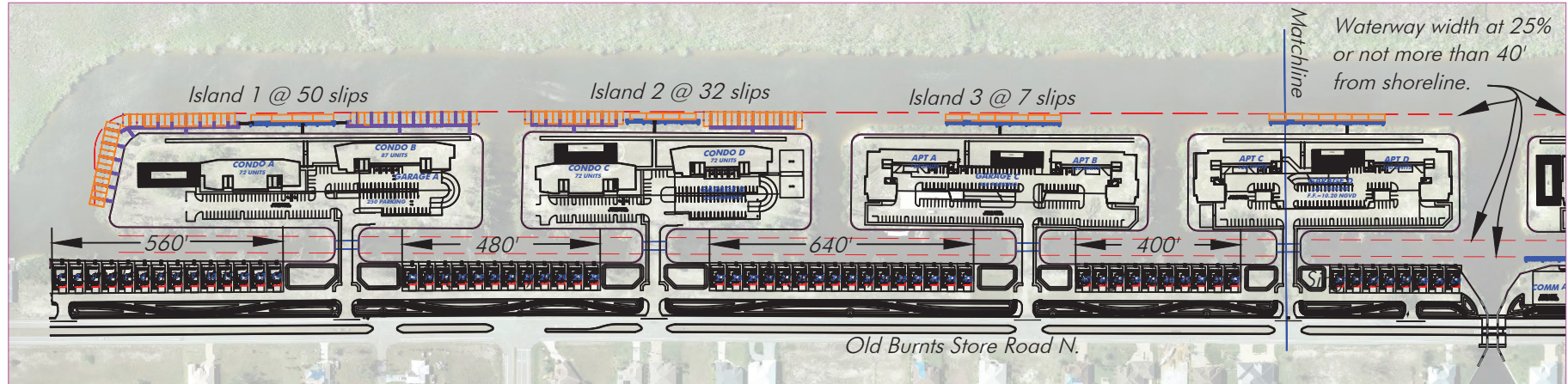
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SECTION: 12 & 13  
TOWNSHIP: 44 South  
RANGE: 13 East

Drone Aerial 1-13-23

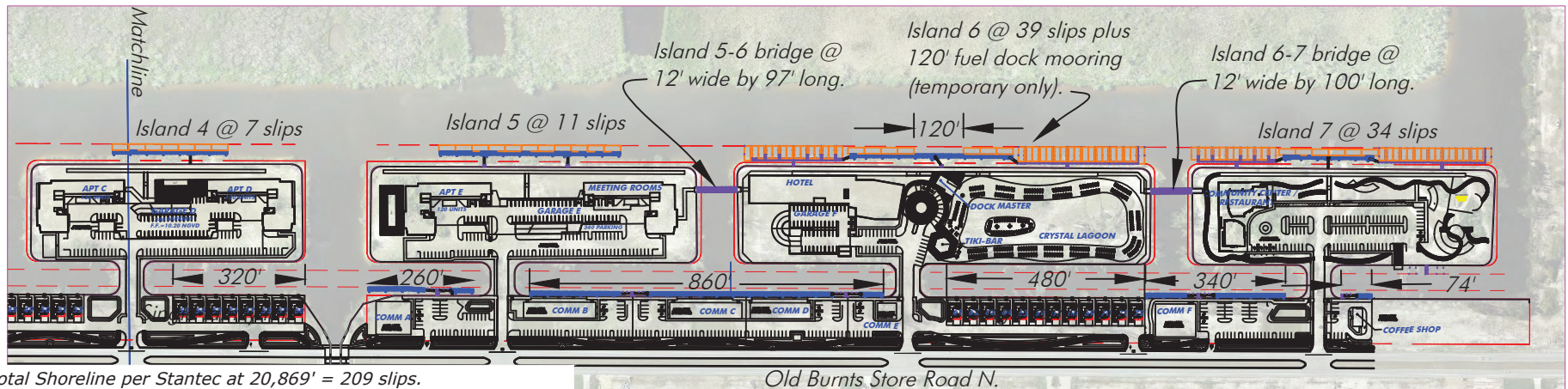
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SCALE FEET



Total slip count for the common element, residential owned and commercial marina wet slips is 180. Total temporary mooring (no overnight) in commercial areas @ 1,534 lf.

## Detail A - Dock Plan

SCALE: 1" = 400'



Total Shoreline per Stantec at 20,869' = 209 slips.  
Lee County MPP assessment = 201 slips.  
Split shoreline between Fish Houses (2,880 lf.) and the Common Element (17,989 lf.). That allows 180 slips for the Common Element. The Fish Houses as 72 single family residential units are excluded from the Manatee Protection Plan.  
Upland site plan prepared by Avalon Engineering dated 12-8-23.  
**PERMIT PLANS, NOT FOR CONSTRUCTION**

## Detail B - Dock Plan

SCALE: 1" = 400'

January 05, 2024 10:11:55 a.m.  
Drawing: FOREST1MASTER.DWG



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

1-5-24

HJMw

Gulf Gateway Resort  
& Marina Village

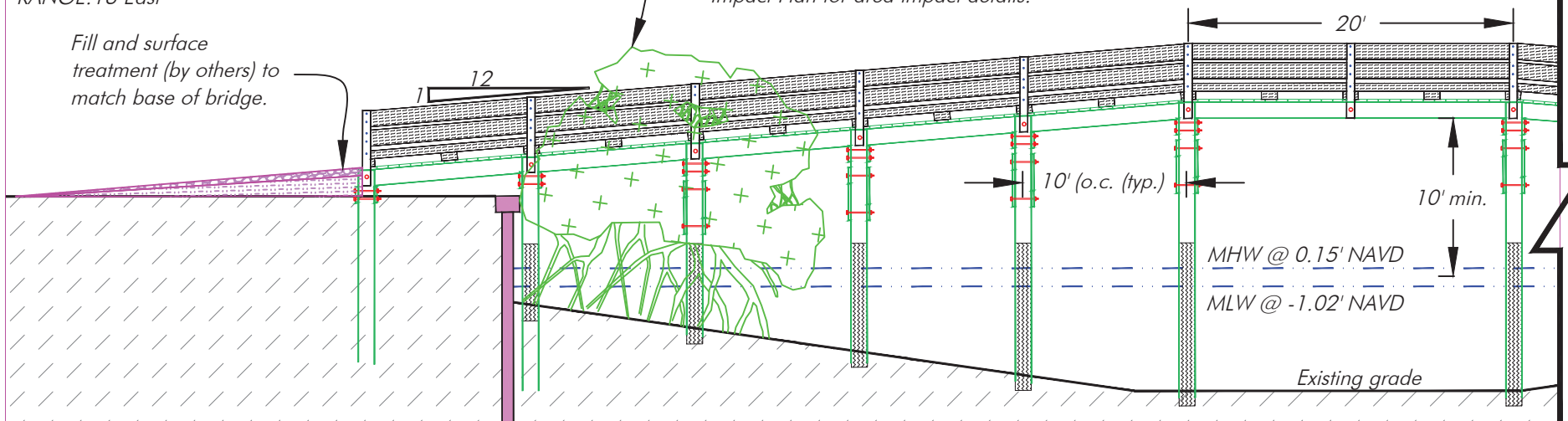
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SECTION: 12 & 13  
TOWNSHIP: 44 South  
RANGE: 13 East

0' 5' 10'  
SCALE FEET

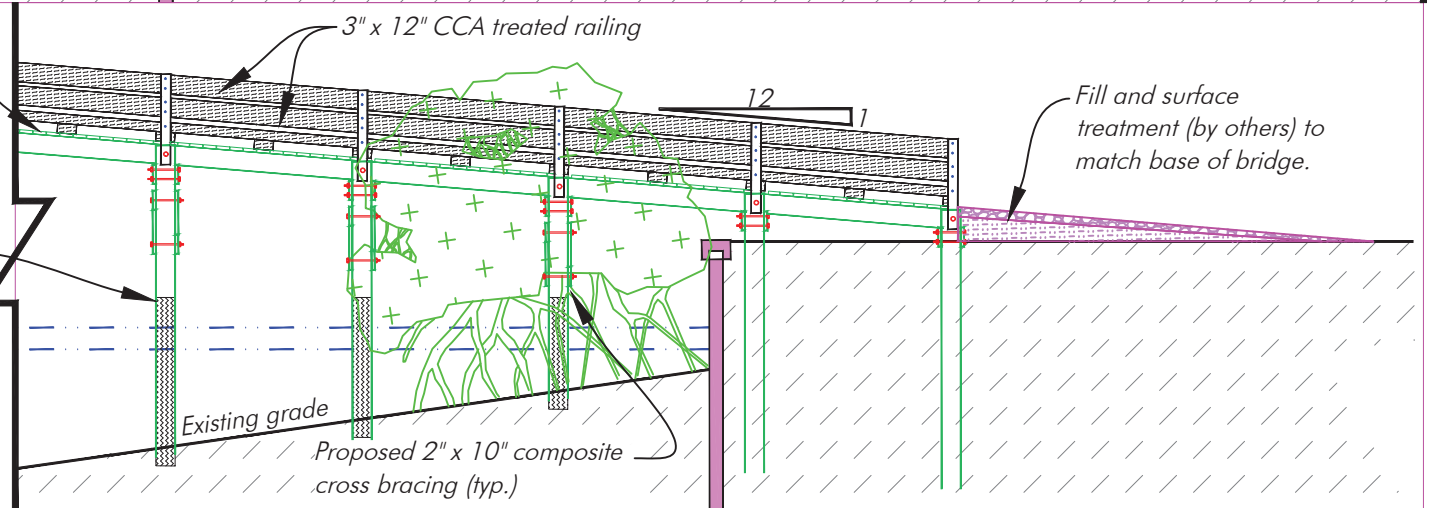
Fill and surface treatment (by others) to match base of bridge.

Mangroves to be removed to one foot on each side of 12' wide bridge. Refer to the Shoreline Impact Plan for area impact details.



Proposed 12' wide x 100' ± long (over jurisdictional waters) fixed wooden bridge (length varies).

Proposed 12" butt dia. wooden piling (Typ.) with tip penetration a minimum of 40% of the overall pile length or minimum penetration @ 10'. Piles to be wrapped with HDPE from 2' above MHW to 1' below mud line (Typ.).



Fill and surface treatment (by others) to match base of bridge.

## Cross Section E-E (Typical)

SCALE: 1" = 10'

Note: Bathymetric surveys completed on 6-23-21 and 3-22-23. Depths reference Mean Low Water @ El. -1.02' NAVD. Mean High Water @ El. 0.15' NAVD per DEP Tidal Datum request.

**PERMIT PLANS, NOT FOR CONSTRUCTION**

January 05, 2024 10:11:55 a.m.  
Drawing: FOREST1MASTER.DWG



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MARINE and ENVIRONMENTAL CONSULTANTS

1-5-24

JWA

*Gulf Gateway Resort  
& Marina Village*

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