



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

February 21, 2025

Regulatory Division
West Branch
Fort Myers Permits Section

PUBLIC NOTICE

Permit Application No. SAJ-1986-00986 (SP-MLG)

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:

If you are interested in receiving additional project drawings associated with this public notice, please send an e-mail to the project manager by electronic mail at Michelle.L.Gilbert@usace.army.mil.

APPLICANT: Boating Gear Center, LLC
c/o Michael McLamb
2600 McCormick Drive, Suite 200
Clearwater, Florida 33759

WATERWAY AND LOCATION: The project would affect aquatic resources associated with the Orange Creek-Whiskey Creek Frontal (HUC 12: 030902050606) at Deep Lagoon. The project site is located at 14010-14040 McGregor Boulevard in Section 29, Township 45 South, Range 24 East, Fort Myers, Lee County, Florida.

Directions to the site are as follows: From the Fort Myers Regulatory Office, travel west on Royal Palm Square Boulevard to McGregor Boulevard. Turn left and head south for 4.3 miles. Turn right onto 14010 McGregor Boulevard.

APPROXIMATE CENTRAL COORDINATES: Latitude 26.53813°
Longitude -81.92194°

PROJECT PURPOSE:

Basic: Marina renovation

Overall: The overall project purpose is to modify an existing 480 slip marina to accommodate larger vessels in Lee County, Florida.

EXISTING CONDITIONS: The existing marina consists of 125 wet slips, 85 outside dry racks, 270 dry storage spaces, two fork truck launch locations, a travel lift, boaters lounge, dockmasters office, sales office, service center and restaurant. The majority of the available wet slips in the marina are designed to accommodate vessels up to 50 feet, and capable of mooring vessels up to 90 feet in limited locations. The dry storage facility is designed to accommodate vessels from the smallest dinghy up to a 45-foot quad engine sport fishing boat.

The wetland system consists of a 0.87-acre saltwater system with 894 square feet of tidal wetlands, including 570 square feet of a mangrove fringe.

PROPOSED WORK: The proposed work would consist of:

1) Dredging 37,730 square feet (sf) (0.87-acre) of tidal waters to -7 mean low water (MLW); excavating and removing 96,680 sf (2.22 acres) of uplands; removing approximately 975 linear feet of vertical seawall, 213 linear feet of riprap revetment, and 894 sf (0.02-acre) of mangroves. The excavated material would be placed in a temporary upland containment area and later disposed of at an approved upland disposal site;

2) Constructing a 20-foot wide living shoreline and mangrove planter shelf around the peninsula; stabilizing the toe of the shelf with a limestone riprap revetment; installing a retaining wall to retain stormwater and direct it to treatment areas interior of the peninsula; and planting 1,423 wetland plants on 3-foot centers;

3) Installing 14,379 sf of new dock with 35 uncovered slips. The dock would include four 6-foot wide by 30-foot long aluminum gangways (720 sf) attached to four (4) 8-foot wide by 15-foot long floating access docks (480 sf) that would connect to an 8-foot wide shore parallel floating dock (9,008 sf). Sixteen (16) 5-foot wide by 50-foot long floating finger piers (4,000 sf) would connect to the main floating dock with 3-foot by 3-foot triangle corner braces (171 sf). The docks would be installed after the completion of the living shoreline and riprap revetment. The main floating dock would be anchored using forty-four (44) 18-inch concrete pilings. The slips will share 12-inch diameter mooring pilings amidship, and at the end of the slip an additional mooring piling will be placed at the end of each finger pier for a total of 45 pilings. All CCA treated mooring pilings will be PVC wrapped from 1-foot above the mean high water (MHW) to 1-foot below the mudline. The South Peninsula currently has 35 slips, and that number will remain the same with the slip sizes being expanded to accommodate larger vessels. The docks will provide mooring for private recreational vessels ranging in size from 50-foot to 100-foot with drafts up to 5.5 feet.

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”; The 2011 Standard Manatee Construction Conditions for In-water Construction and the Sea Turtle and Smalltooth Sawfish Construction Conditions of March 2006. The Contractor will utilize best management practices during all phases of construction to prevent the spread of turbidity into the waters of the United States. Turbidity control measures will be maintained until all construction is complete. Weighted turbidity curtains will be installed around all stages of construction and will be relocated as the work progresses around the basin. Turbidity curtains will be maintained until all construction is complete and all turbidity has subsided to acceptable levels. Turbidity will be visually monitored, all turbidity controls shall be inspected daily, and any repairs made immediately prior to construction continuing.”

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

The applicant will purchase 0.01 Forested Saltwater Mitigation Credits from the Little Pine Island Mitigation Bank.

CULTURAL RESOURCES:

The Corps 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 Corps determined the proposal may affect, but is not likely to adversely affect the endangered West Indian manatee (*Trichechus manatus*) or its designated critical habitat. The Corps will request U.S. Fish and Wildlife Service concurrence with this determination pursuant to Section 7 of the Endangered Species Act.

The Corps has determined the proposed project may affect, but is not likely to adversely affect the threatened/endangered swimming sea turtles (*Chelonia mydas*, *Eretmochelys imbricata*, *Lepidochelys kempii*, *Dermochelys coriacea*, *Caretta caretta*), and the endangered smalltooth sawfish (*Pristis pectinata*) with designated critical habitat. The Corps will request National Marine Fisheries Service concurrence with this determination pursuant to Section 7 of the Endangered Species Act.

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 0.02 acres of mangrove habitat utilized by various life stages of fish species including the Smalltooth sawfish. Our initial determination is that the proposed action would not have a substantial adverse impact on EFH or Federally managed fisheries in the Gulf of America. 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: The proposed activity is not located in the vicinity of a federal navigation channel.

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 regulation 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 District Engineer through the Fort Myers Permits Section, 1520 Royal Palm Square, Ste 310, Fort Myers, FL 33919 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, Michelle L. Gilbert, in writing at the Fort Myers Permits Section, 1520 Royal Palm Square Blvd., Ste 310, Fort Myers, FL 33919; by electronic mail at michelle.l.gilbert@usace.army.mil; 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.

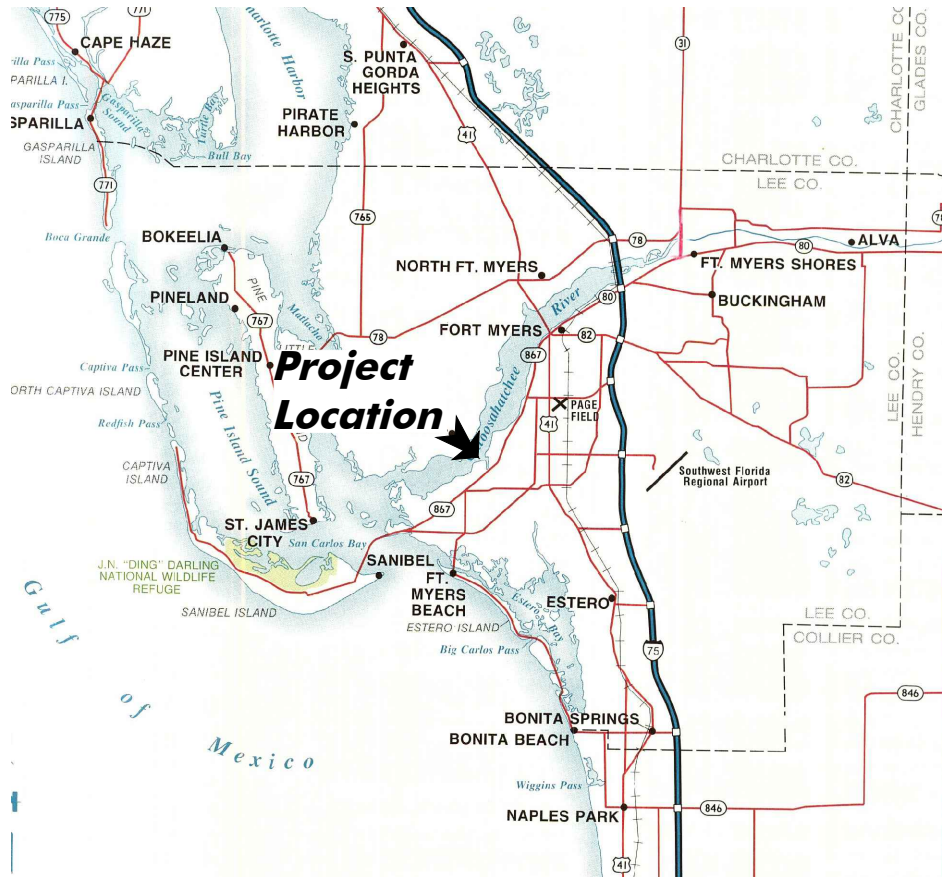
The US Army Corps of Engineers (Corps) is soliciting comments from the public; Federal, State, and local agencies and officials; Indian Tribes; and other Interested parties in order to consider and evaluate the impacts of this proposed activity. Any comments received will be considered by the Corps to 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 is required from the Florida Department of Environmental Protection (FDEP). The project was approved under FDEP application number 128502-027 EI.

COASTAL ZONE MANAGEMENT CONSISTENCY: In Florida, the State approval constitutes compliance with the approved Coastal Zone Management Plan.

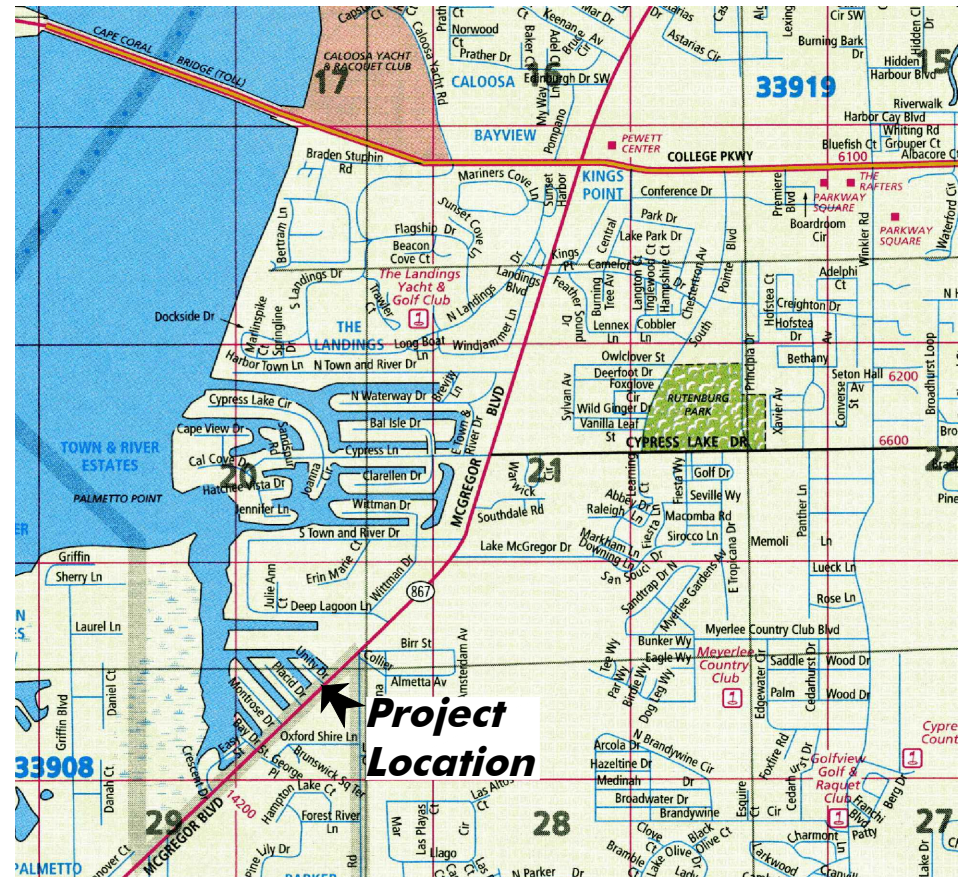
REQUEST FOR PUBLIC HEARING: Any person may request a public hearing. The request must be submitted in writing to the District Engineer within the designated comment period of the notice and must state the specific reasons for requesting the public hearing.

SECTIONS: 29
TOWNSHIP: 45S
RANGE: 24E



Vicinity Map

SCALE: 1" = 10 mi



Location Map

SCALE: 1" = 1/2 mi

PERMIT USE ONLY, NOT FOR CONSTRUCTION

October 30, 2023 5:37:52 p.m.
Drawing: MARINEMAX1MASTER.DWG



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

8-7-23

HJMW

Boating Gear Center LLC

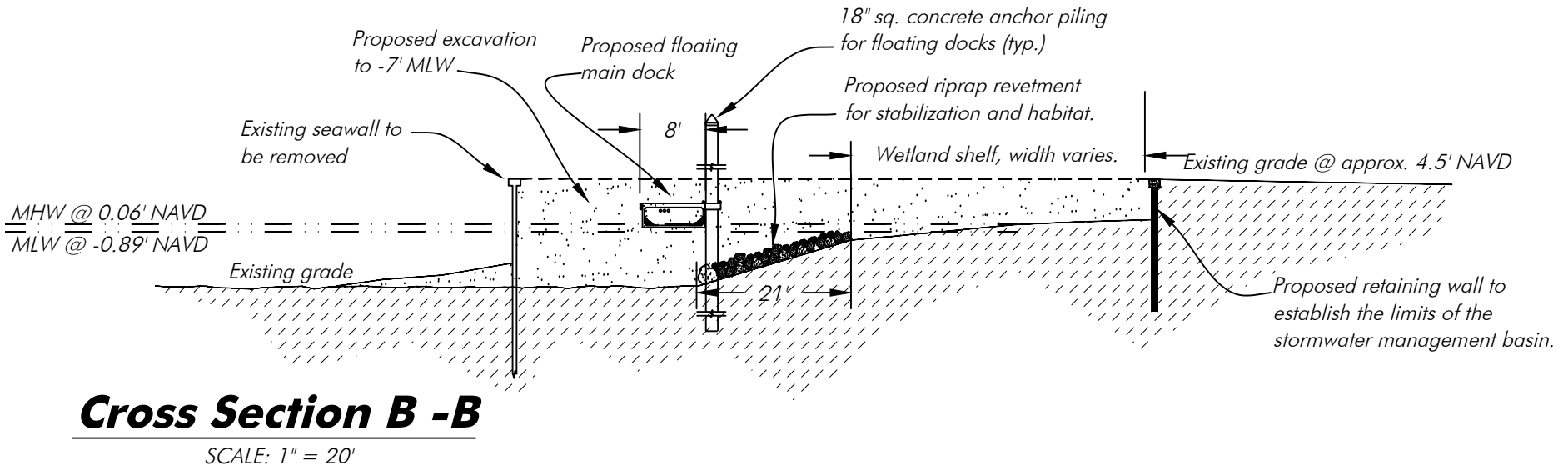
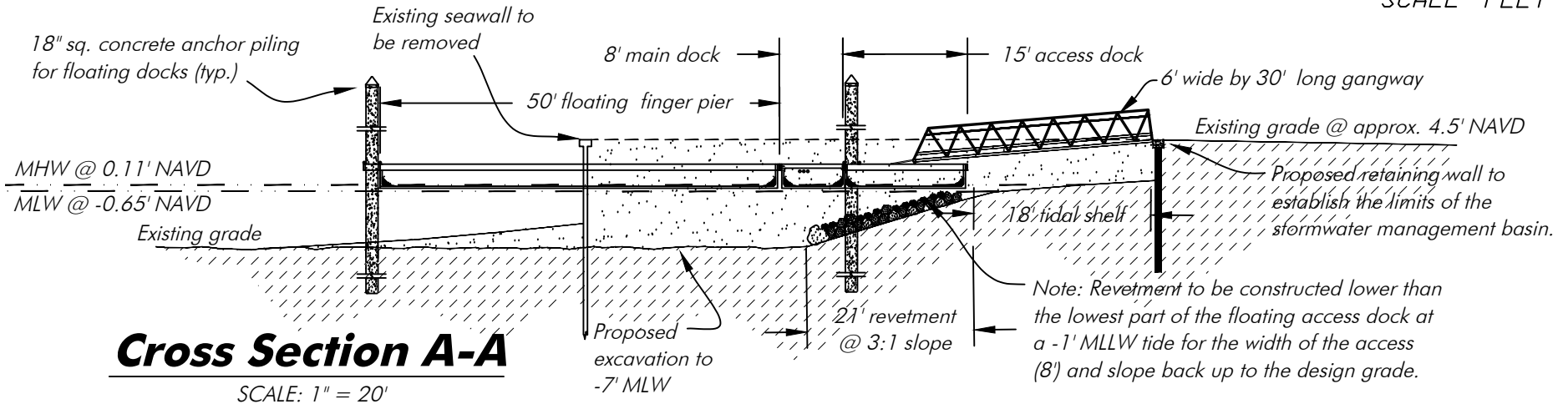
SHEET

1-8

SHEET
6-8

SECTIONS: 29
TOWNSHIP: 45S
RANGE: 24E

0' 10' 20'
SCALE FEET



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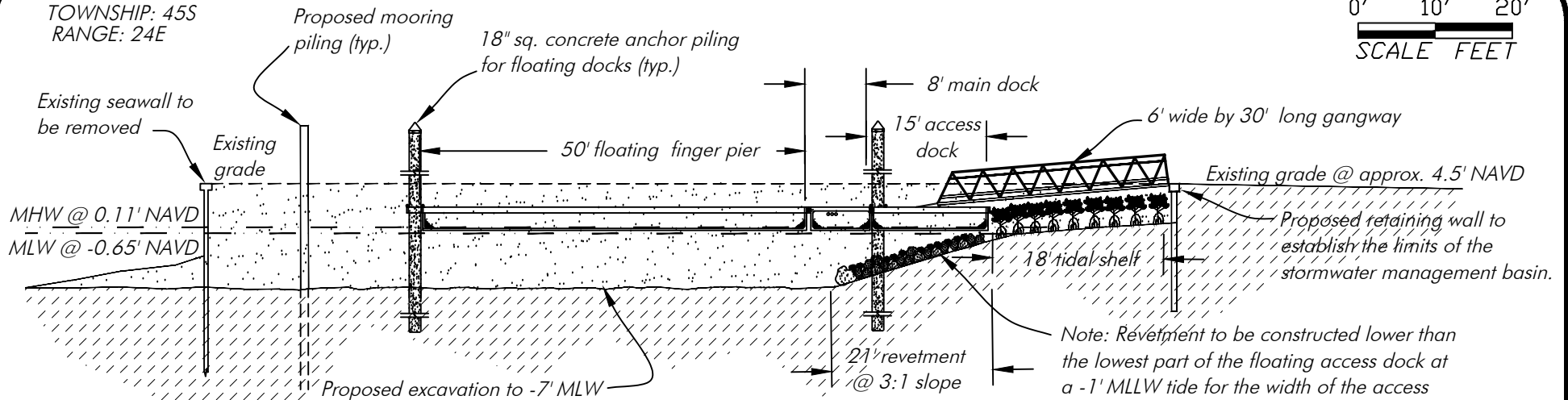
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Boating Gear Center LLC

SHEET
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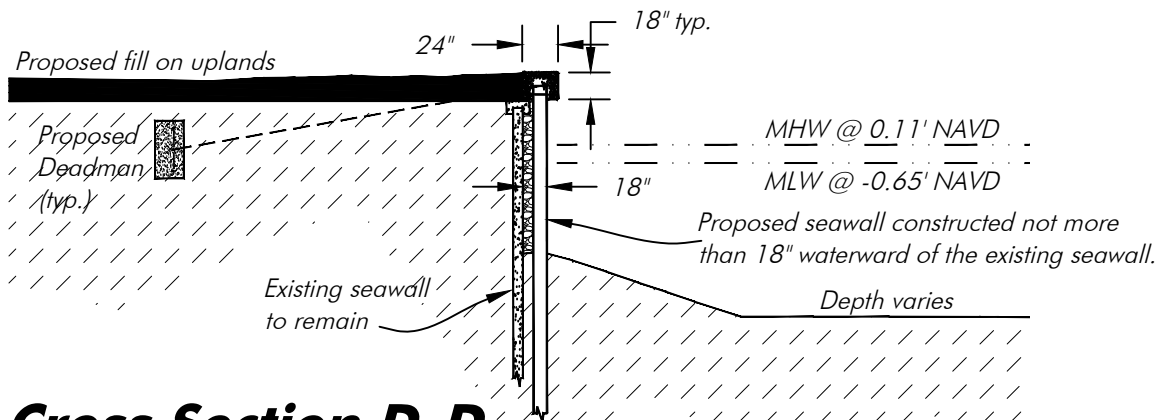
SECTIONS: 29
TOWNSHIP: 45S
RANGE: 24E

0' 10' 20'
SCALE FEET



Cross Section C-C

SCALE: 1" = 20'



Cross Section D-D

SCALE: 1" = 10'

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SHEET

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