



# PUBLIC NOTICE

US Army Corps  
of Engineers  
New York District  
Jacob K. Javits Federal Building  
New York, N.Y. 10278-0090  
ATTN: Regulatory Branch

**In replying refer to:**

Public Notice Number: NAN-2013-01473-ESW  
Issue Date: March 6, 2014  
Expiration Date: April 5, 2014

**To Whom It May Concern:**

The New York District, Corps of Engineers 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).

**APPLICANT:** Cliff Birmingham  
81 Pine Avenue  
Flanders, New York 11901

**ACTIVITY:** Boat slip closure, bulkhead replacement and installation of new dock structures.

**WATERWAY:** Goose Creek, Peconic Bay

**LOCATION:** Village of Flanders, Town of Southampton, Suffolk County, New York

A detailed description and plans of the applicant's activity are enclosed to assist in your review.

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 benefit 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 the cumulative effects thereof; among those are conservation, economics, aesthetics, general environmental concerns, wetlands, historic 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.

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 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.

**ALL COMMENTS REGARDING THE PERMIT APPLICATION MUST BE PREPARED IN WRITING AND MAILED TO REACH THIS OFFICE BEFORE THE EXPIRATION DATE OF THIS NOTICE,** otherwise, it will be presumed that there are no objections to the activity.

Any person may request, in writing, before this public notice expires, that a public hearing be held to collect information necessary to consider this application. Requests for public hearings shall state, with particularity, the reasons why a public hearing should be held. It should be noted that information submitted by mail is considered just as carefully in the permit decision process and bears the same weight as that furnished at a public hearing.

**CENAN-OP-RE**  
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Our preliminary determination is that the activity for which authorization is sought herein is not likely to affect any Federally endangered or threatened species or their critical habitat. However, pursuant to Section 7 of the Endangered Species Act (16 U.S.C. 1531), the District Engineer is consulting with the appropriate Federal agency to determine the presence of and potential impacts to listed species in the project area or their critical habitat.

The Magnuson-Stevens Fishery Conservation and Management Act, as amended by the Sustainable Fisheries Act (Public Law 104-267) , requires all Federal agencies to consult with the National Oceanic and Atmospheric Administration Fisheries Service (NOAA/FS) on all actions, or proposed actions, permitted, funded, or undertaken by the agency, that may adversely affect Essential Fish Habitat (EFH). The proposed work, fully described in the attached work description, could cause the disruption of habitat for various lifestages of some EFH-designated species as a result of a temporary increase in turbidity during construction. However, the New York District has made the preliminary determination that the site-specific adverse effects are not likely to be substantial because it is expected that fish populations would avoid the small area of disturbance. Further consultation with NOAA/FS regarding EFH impacts and conservation recommendations being conducted and will be concluded prior to the final decision.

Based upon a review of the latest published version of the National Register of Historic Places, there are no known sites eligible for, or included in, the Register within the permit area. Presently unknown archeological, scientific, prehistorical, or historical data may be lost by work accomplished under the required permit.

Reviews of activities pursuant to Section 404 of the Clean Water Act will include application of the guidelines promulgated by the Administrator, U.S. Environmental Protection Agency, under authority of Section 404 (b) of the Clean Water Act and the applicant will obtain a water quality certificate or waiver from the appropriate state agency in accordance with Section 401 of the Clean Water Act prior to a permit decision.

Pursuant to Section 307 (c) of the Coastal Zone Management Act of 1972 as amended [16 U.S.C. 1456 (c)], for activities under consideration that are located within the coastal zone of a state which has a federally approved coastal zone management program, the applicant has certified in the permit application that the activity complies with, and will be conducted in a manner that is consistent with, the approved state coastal zone management program. By this public notice, we are requesting the state's concurrence with, objection to, or waiver of the applicant's certification. No permit decision will be made until one of these actions occur. For activities within the coastal zone of New York State, the applicant's certification and accompanying information is available from the Consistency Coordinator, New York State Department of State, Division of Coastal Resources and Waterfront Revitalization, Coastal Zone Management Program, 41 State Street, Albany, New York 12231, Telephone (518) 474-6000. Comments regarding the applicant's certification, and copies of any letters to this office commenting upon this proposal, should be so addressed.

In addition to any required water quality certificate and coastal zone management program concurrence, the applicant has obtained or requested the following governmental authorization for the activity under consideration:

- New York State Department of Environmental Conservation

In order for us to better serve you, please complete our Customer Service Survey located at:  
[http://corpsmapu.usace.army.mil/cm\\_apex/f?p=regulatory\\_survey](http://corpsmapu.usace.army.mil/cm_apex/f?p=regulatory_survey)

It is requested that you communicate the foregoing information concerning the activity to any persons known by you to be interested and who did not receive a copy of this notice. If you have any questions concerning this application, you may contact this office at (917) 790-8618 and ask for Amanda Switzer.

**CENAN-OP-RE**  
**PUBLIC NOTICE No. NAN-2013-01473-ESW**

For more information on New York District Corps of Engineers programs, visit our website at  
<http://www.nan.usace.army.mil>



for

Jodi M. McDonald  
Chief, Regulatory Branch

Enclosures

**WORK DESCRIPTION**

The applicant, Cliff Birmingham, has requested Department of the Army authorization to close off an existing 20-foot-long by 23-foot-wide boat slip with 23 linear feet of new bulkhead and backfill below the plane of Spring High Water with 204 cubic yards of clean sand from an upland source.

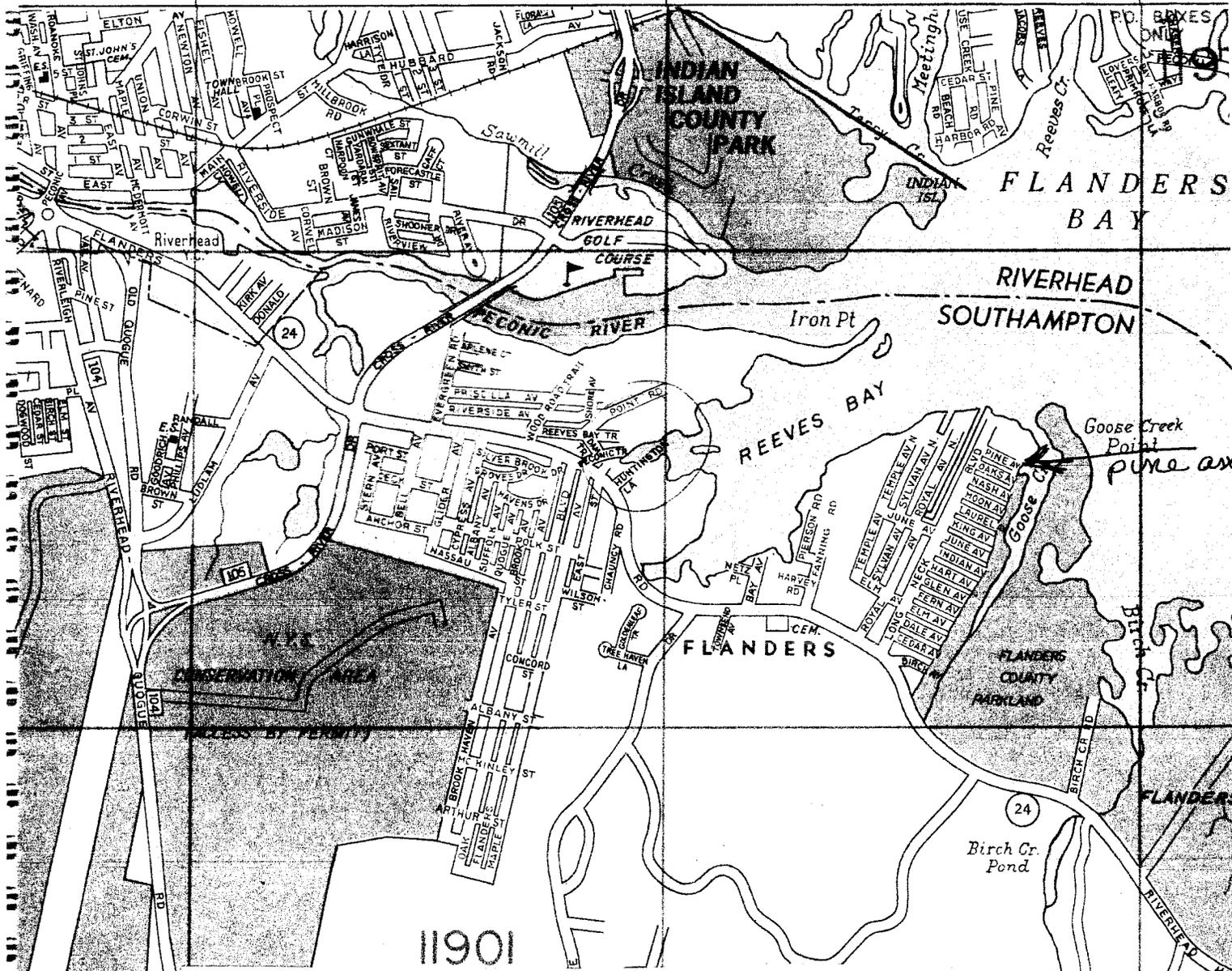
The regulated work will include replacement of the existing 91 linear feet of timber bulkhead with Navy bulkhead to an elevation two feet higher than existing, with two returns measuring 60 linear feet and 15 linear feet. The applicant will install a new 5-foot-wide by 5-foot-long grated cantilever deck with stairs seaward of the bulkhead. Proposed work also consists of installation of a new 3-foot-wide by 12-foot-long ramp leading to a 6-foot-wide by 20-foot-long float including the installation of 4 float piles, 4 mooring piles, and a davit. The total length of the structure will extend 33 feet into the approximately 115-foot-wide waterway, greater than 25 percent of the width of Goose Creek.

The applicant has stated that they have avoided, minimized, and mitigated for impacts proposed to the maximum extent practicable. The impacts associated with the bulkhead maintenance are temporary and would be offset by implementing best management practices. The boat ramp closure is considered a permanent impact, but is necessary to prevent future flooding of the property.

The purpose of this regulated work is to provide safe navigation for recreation, storm risk reduction, and maintenance.

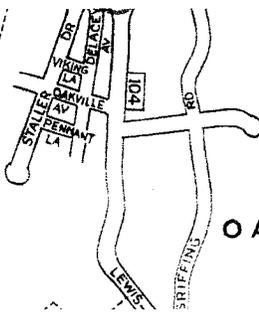
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|--|----------------|--|--------------|
| 414 South Service Road #233<br>Patchogue, NY 11772<br>631-807-0300<br>FAX 631-244-8784 |                | Site:<br>81 Pine Avenue<br>Flanders, NY 11901                          |              |
|  |                | Applicant:<br>Cliff Birmingham<br>81 Pine Avenue<br>Flanders, NY 11901 |              |
| Prepared, 09/15/13   |                | S.C.T.M. 0900-123-2-31   | DEC<br>01    |
| By ACE Inc., J. Morena   | SCALE 1" = 10' | Datum: Mean Low Water (ApLW)   | SHEET 3 OF 3 |

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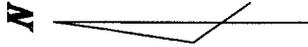
OAKVILLE

NAN-2013-01473-ESW



# PROJECT PLAN

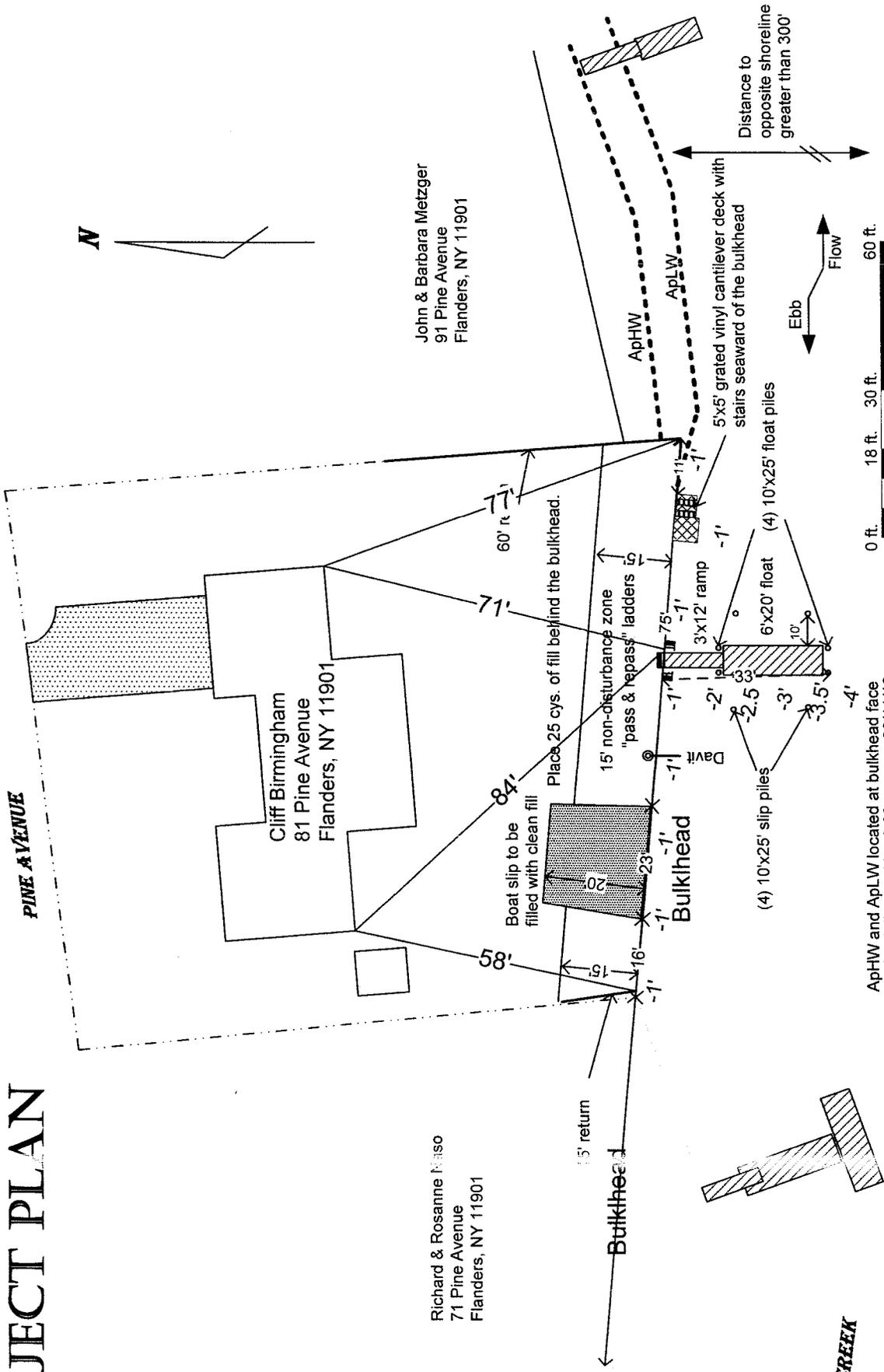
PINE AVENUE



Richard & Rosanne Niso  
71 Pine Avenue  
Flanders, NY 11901

John & Barbara Metzger  
91 Pine Avenue  
Flanders, NY 11901

Cliff Birmingham  
81 Pine Avenue  
Flanders, NY 11901



Tidal wetlands line and water depths delineated by J. Morena on 08/11/13  
ApHW and ApLW located at bulkhead face

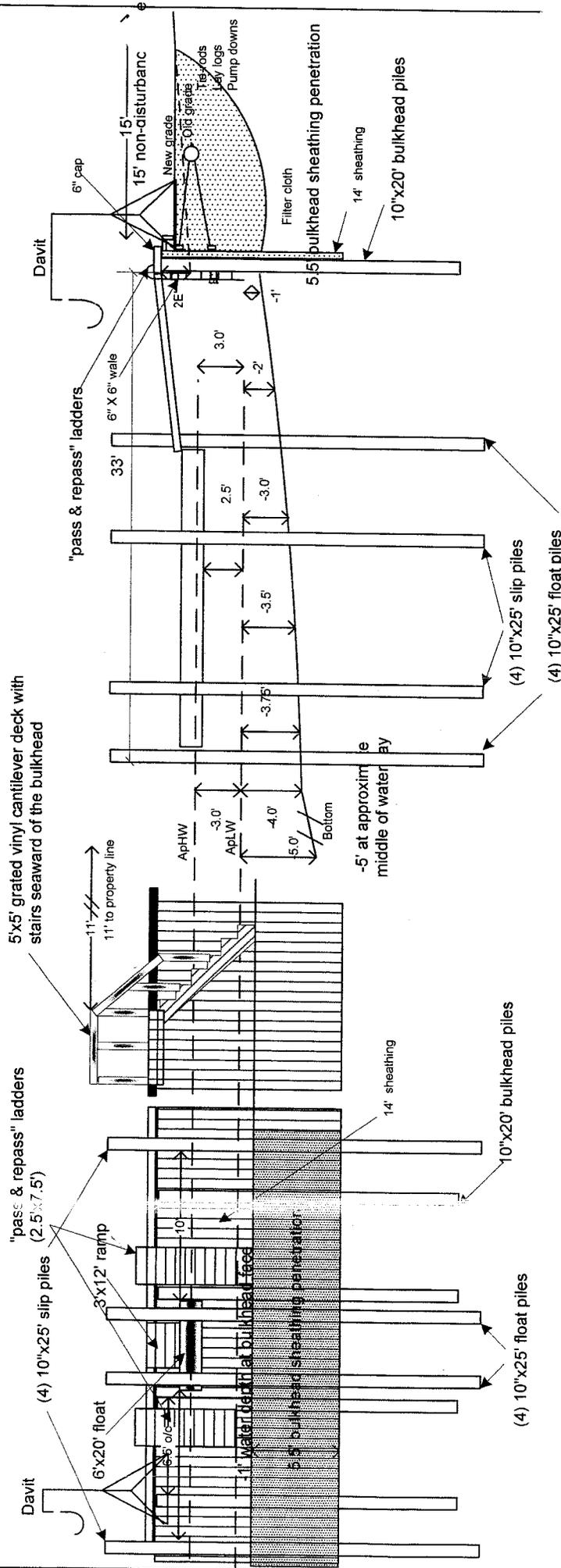
|   |   |  |  |  |                        |
|---|---|--|--|--|------------------------|
| <b>ACE Inc.</b><br>John J. Morena<br>414 South Service Road #233<br>Patchogue, NY 11772<br>631-807-0300<br>FAX 631-244-8784 | <b>Site:</b><br>81 Pine Avenue<br>Flanders, NY 11901                          |  | <b>Machinery Access by</b><br>Barge and land<br>S.C.T.M. 0900-123-2-31 | <b>Datum:</b> Mean Low<br>Water (ApLW) | <b>SHEET</b><br>2 OF 3 |
|   | <b>Applicant:</b><br>Cliff Birmingham<br>81 Pine Avenue<br>Flanders, NY 11901 |  |  |  |                        |
| Prepared, 09/15/13  | DEC 01  |  |  |  |                        |
| By ACE Inc., J. Morena  |   |  |  |  |                        |

### Proposed Activities:

1. Close off existing boat slip with 23' of new Navy bulkhead, elevated by 2 feet.
2. Fill to grade existing 23'x20x4' boat slip with 204 cys. of clean fill.
3. Replace in place an existing 91' bulkhead with a 91' navy bulkhead, elevated by 2 feet.
4. Install one 60' return on the easterly property side and one 15' return on the westerly property line.
5. Maintain a 15 foot non-disturbance area landward of the bulkhead.
6. Install (1) 3'x12' ramp and (1) 6'x20' float.
7. Install (4) 10'x25' float piles and (4) 10'x25' slip piles.
8. Install one davit.
9. Install a 5'x5' grated vinyl cantilever deck with stairs seaward of the bulkhead.

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# CROSSVIEW



## NAN-2013-01473-ESW

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|---|--|---|--|
| <b>ACE Inc.</b><br>John J. Morena<br>414 South Service Road #233<br>Patchogue, NY 11772<br>631-807-0300<br>FAX 631-244-8784 |  | <b>Site:</b><br>81 Pine Avenue<br>Flanders, NY 11901                          |  |
| Prepared, 09/15/13<br>By ACE Inc., J. Morena  |  | <b>Applicant:</b><br>Cliff Birmingham<br>81 Pine Avenue<br>Flanders, NY 11901 |  |
| SCALE 1" = 10'  |  | S.C.T.M. 0900-123-2-31  |  |
| Machinery Access by barge and land  |  | Datum: Mean Low Water (AplW)  |  |
| SHEET 2 OF 3  |  | DEC 01  |  |

- Proposed Activities:**
1. Close off existing boat slip with 23' of new Navy bulkhead, elevated by 2 feet.
  2. Fill to grade existing 23'x20x4' boat slip with 204 cys. of clean fill.
  3. Replace in place an existing 91' bulkhead with a 91' navy bulkhead, elevated by 2 feet.
  4. Install one 60' return on the easterly property side and one 15' return on the westerly property line.
  5. Maintain a 15 foot non-disturbance area landward of the bulkhead.
  6. Install (1) 3'x12' ramp and (1) 6'x20' float.
  7. Install (4) 10"x25' float piles and (4) 10"x25' slip piles.
  8. Install one davit.
  9. Install a 5'x5' grated vinyl cantilever deck with stairs seaward of the bulkhead.