



# 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-2018-00083-ERO**  
Issue Date: **October 2, 2019**  
Expiration Date: **November 1, 2019**

## 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 USC 1344):

**APPLICANT:** Carl D'Agostino  
328 Bay Drive  
Massapequa, New York 11758

**ACTIVITY:** Place fill to close an existing boat slip and create upland area; install a stair, pier, ramp, boat lift, and jet ski lift structures; removal of structures; and dredging

**WATERWAY:** Great South Bay

**LOCATION:** 328 Bay Drive, Town of Oyster Bay, Nassau 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

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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.

Comments submitted in response to this notice will be fully considered during the public interest review for this permit application. All written comments, including names and addresses, will be made a part of the administrative record, available to the public under the Freedom of Information Act. The Administrative Record, or portions thereof, may also be posted on a Corps of Engineers internet web site. Due to resource limitations, this office will normally not acknowledge the receipt of comments or respond to individual letters of comment.

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.

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 construction work, fully described in the enclosed Work Description, could cause minimum disruption of habitat for various life stages of some EFH-designated species as a result of a minor short-term temporary increase in turbidity during construction. However, the New York District has made the preliminary determination that the site-specific minor adverse effects are not likely to be substantial because it is expected that fish populations would avoid the small area of minor disturbance. Further consultation with NOAA/FS regarding EFH impacts and conservation recommendations is being conducted and will be concluded prior to the final decision on this permit application.

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.

Review 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 permit 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 application 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

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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 occurs. For activities within the coastal zone of New York, the applicant's certification and accompanying information is available from the New York State Department of State Division of Coastal Resources, Coastal Management Program, 99 Washington Avenue – Suite 1010, Albany, New York 12231-0001, 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

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) 790-8521 and ask for Seika E. Robinson.

In order for us to better serve you, please complete our Customer Service Survey located at <http://www.nan.usace.army.mil/Missions/Regulatory/CustomerSurvey.aspx>.

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



**For and In behalf of**  
Stephan A. Ryba  
Chief, Regulatory Branch

Enclosures

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## WORK DESCRIPTION

The applicant, Carl D'Agostino, has requested Department of the Army (DA) authorization to close off the existing boat slip to create upland and reconstruct an existing bulkhead in Great South Bay, at 328 Bay Drive, Town of Oyster Bay, Nassau County, New York.

The work would involve:

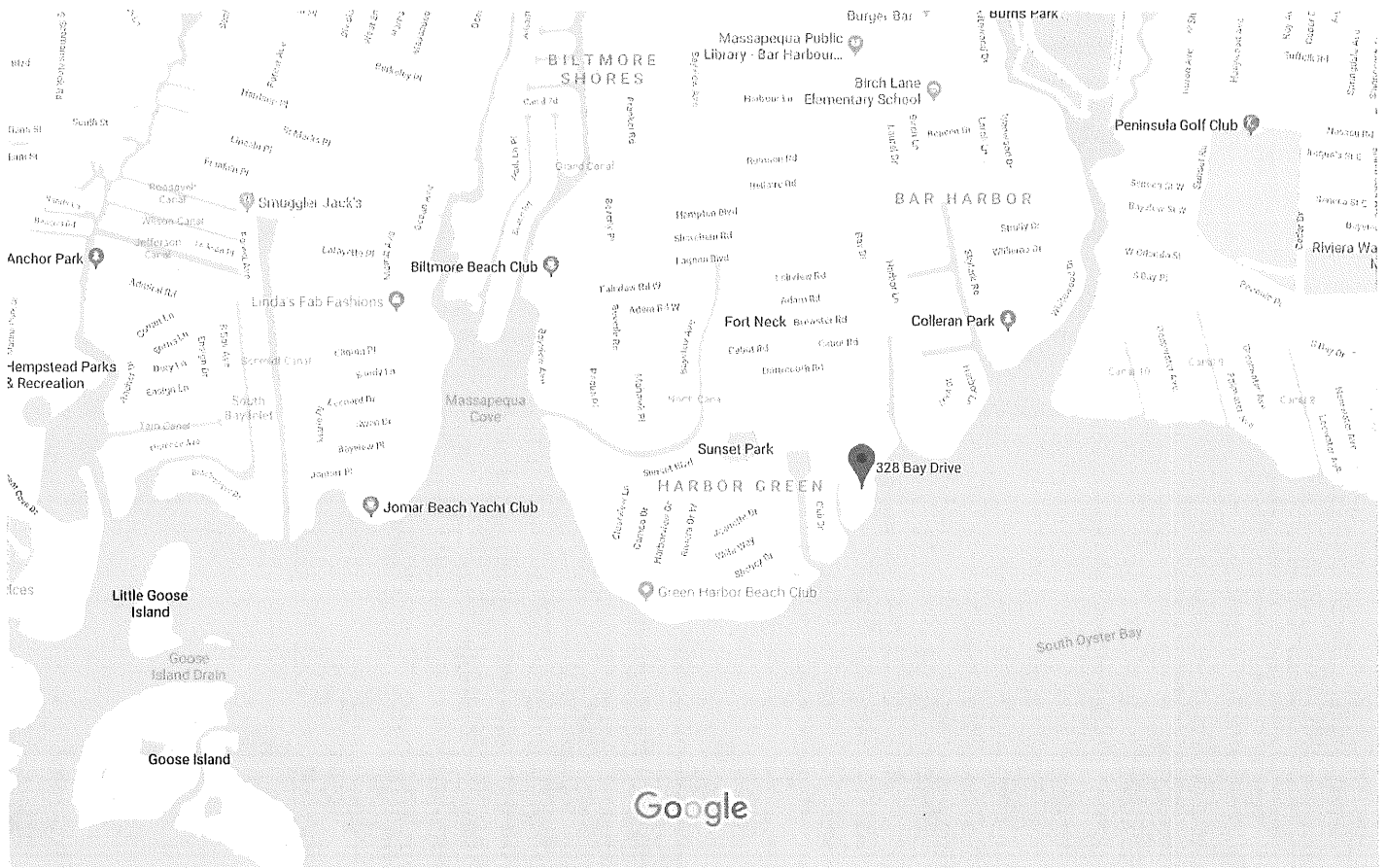
Install 37 linear feet of new bulkhead to close off the existing 24-foot-wide by 37-foot-long boat slip; dredge approximately 3.5 cubic yards of material within a 100 square foot area in front of the bulkhead; place approximately 100 cubic yards of clean and dredged material below Spring High Water behind the new bulkhead and within the existing boat slip, to create an upland area; install a 5-foot-wide by 111-foot-long fixed pier; on the southern side of the proposed fixed pier, install 2 jet ski lifts, 2-foot-wide by 6-foot-long each; on the northern side of the proposed fixed pier, install a 13-foot-wide by 13-foot-long boat lift; on the landward end of the proposed fixed pier, install a 4-foot-wide by 8-foot-long stair structure; on the northern end of the property, remove 51 linear feet of bulkhead and on the southern end of the property, remove 8 linear feet of bulkhead to be moved landward of the existing; remove an existing 8-foot-wide by 30-foot-long groin; and, remove an existing 10-foot-wide by 17-foot-long cantilever.

The applicant has stated that they have avoided, minimized, and mitigated for proposed impacts to the maximum extent practicable by designing the proposed project with the minimum amount of disturbance necessary to perform the work within the confines of a turbidity curtain.

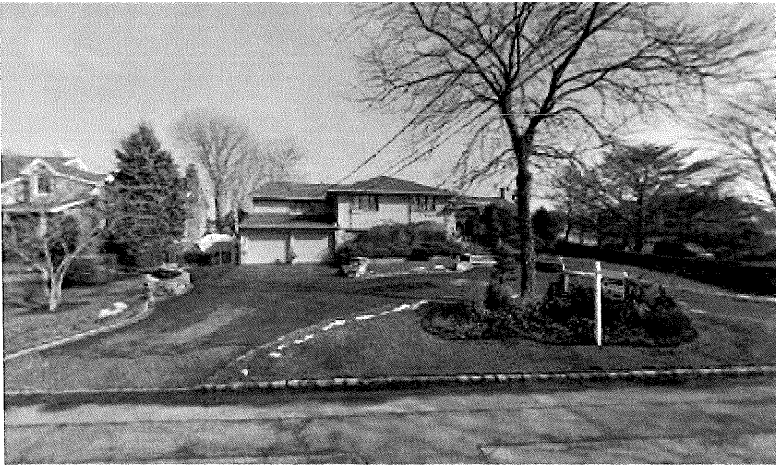
The stated purpose of this project is to stabilize the shoreline while protecting integrity of the upland residence.

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Google Maps 328 Bay Dr



Map data ©2019 1000 ft

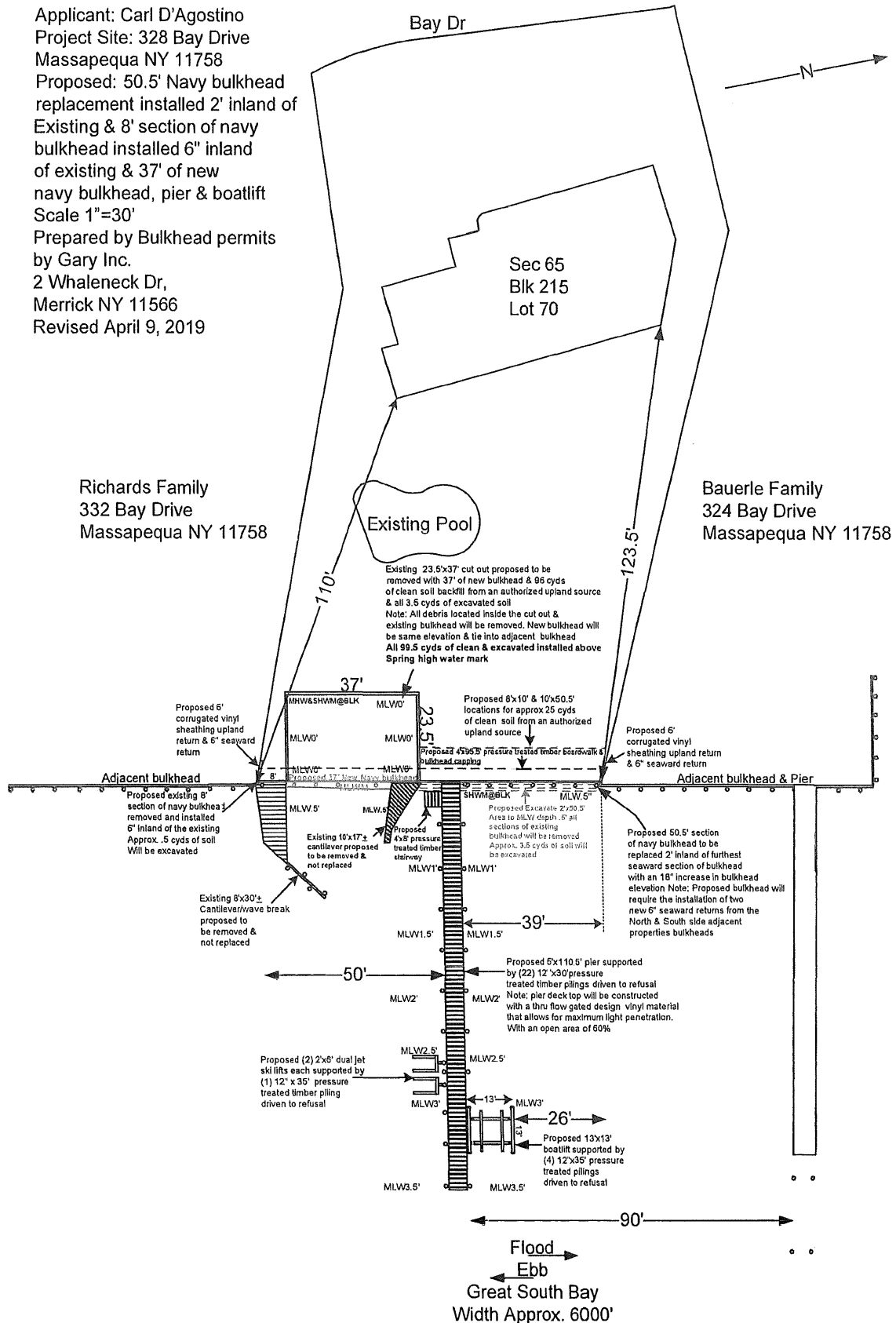


328 Bay Dr  
Massapequa, NY 11758

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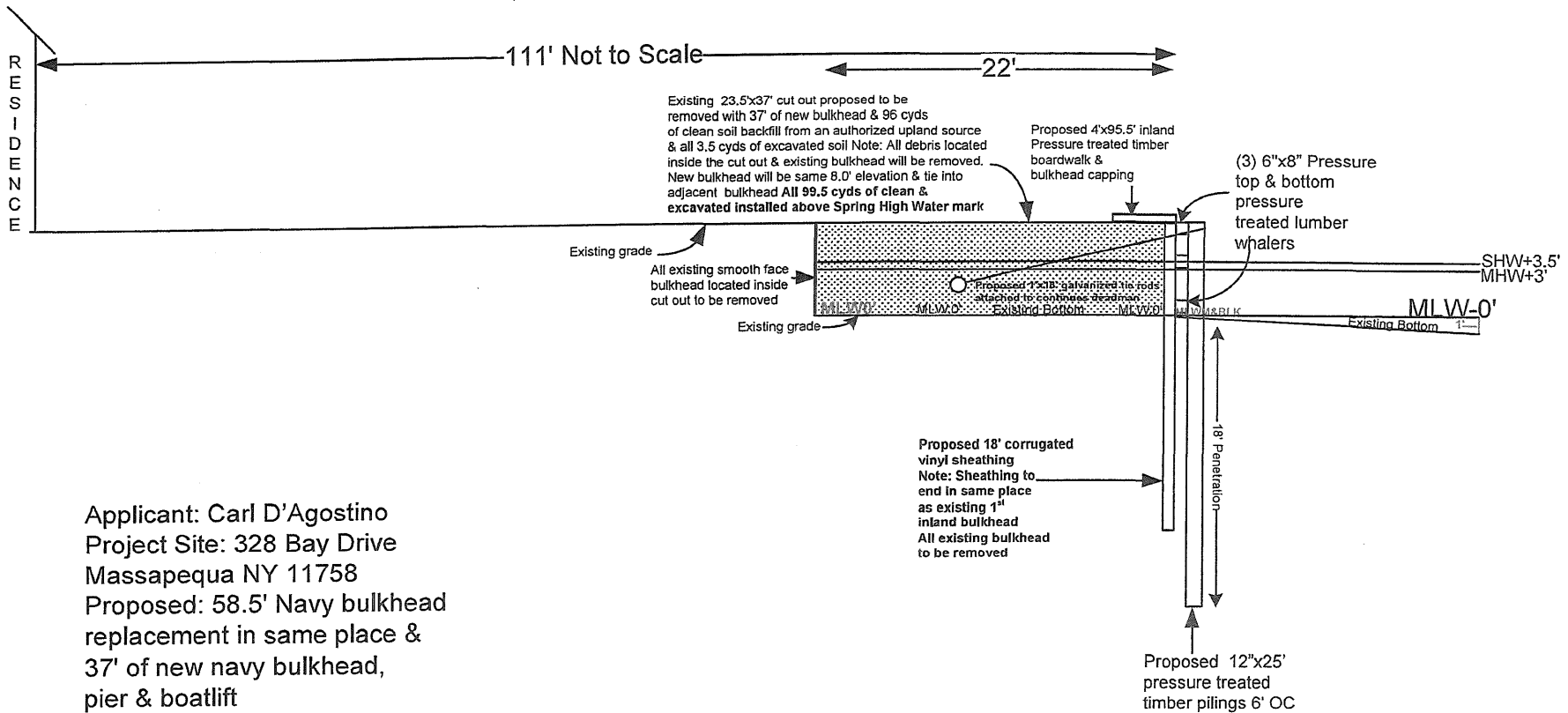
## Project Plan Page 1 of 3

Applicant: Carl D'Agostino  
 Project Site: 328 Bay Drive  
 Massapequa NY 11758  
 Proposed: 50.5' Navy bulkhead  
 replacement installed 2' inland of  
 Existing & 8' section of navy  
 bulkhead installed 6" inland  
 of existing & 37' of new  
 navy bulkhead, pier & boatlift  
 Scale 1"=30'  
 Prepared by Bulkhead permits  
 by Gary Inc.  
 2 Whaleneck Dr,  
 Merrick NY 11566  
 Revised April 9, 2019



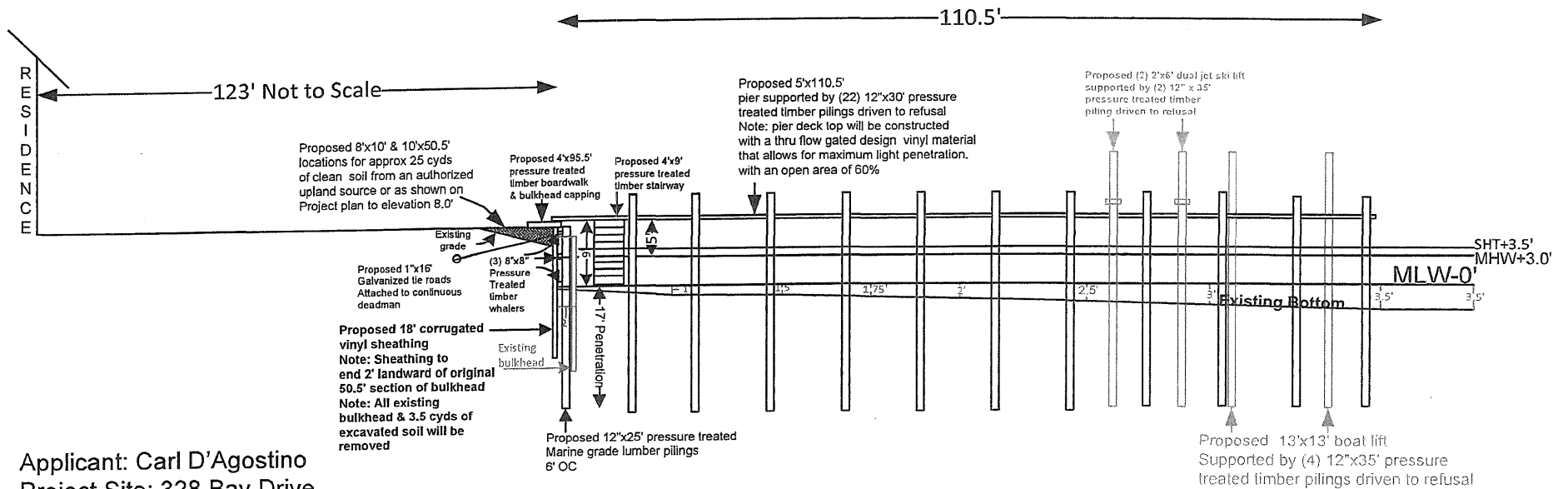
CROSS VIEW  
37' New Bulkhead  
Page 2 of 3

All hardware, nails and bolts shall be hot dip galvanized, all bolt heads and nuts will be used with cut washers. All timber will be pressure treated marine grade. All corrugated vinyl sheathing will be marine grade.



Applicant: Carl D'Agostino  
 Project Site: 328 Bay Drive  
 Massapequa NY 11758  
 Proposed: 58.5' Navy bulkhead  
 replacement in same place &  
 37' of new navy bulkhead,  
 pier & boatlift  
 Scale 1"=10'  
 Prepared by Bulkhead permits  
 by Gary Inc.  
 2 Whaleneck Dr,  
 Merrick NY 11566  
 December 27, 2017

Cross View  
Proposed Pier  
& 50.5' section of  
Bulkhead replacement  
Page 2 of 3



Applicant: Carl D'Agostino  
Project Site: 328 Bay Drive  
Massapequa NY 11758  
Proposed: 50.5' Navy bulkhead to be installed 2' landward of the original bulkhead & 8' section of navy bulkhead installed 6" inland of existing & 37' of new navy bulkhead, pier & boatlift  
Scale 1"=20'  
Prepared by Bulkhead permits by Gary Inc.  
2 Whaleneck Dr,  
Merrick NY 11566  
Revised February 20, 2019