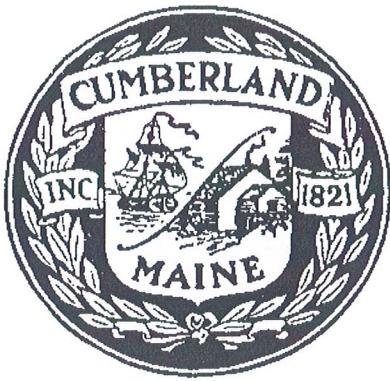


ITEM 17-024

To hold a Public Hearing to consider and act on a wharfing out permit for 30 Ferne Lane, Map U06/Lot B16, as recommend by the Coastal Waters Commission



COASTAL WATERS COMMISSION

MEETING MINUTES
Wednesday, February 16, 2017
6:00 PM – 8:00 PM
PD Training Room

Committee Members:
Lew Incze, Chairman
David Carlson
Hugh Judge
Brent Sullivan
Mike Schwindt
Richard Thompson
Bob Vail
David Witherill

Town Staff:
Tom Gruber
Charles Rumsey
Milton Calder
Jean Duchesneau

Present: Chairman Lew Incze, Mike Schwindt, Richard Thompson, Bob Vail, Hugh Judge, David Carlson

Absent: Brent Sullivan, David Witherill, Thomas Gruber

Town Staff: Charles Rumsey, Chief of Police; Milton Calder, Lieutenant; and Jean Duchesneau, Committee Secretary

Guest: Lisa Vickers, Biologist - Eco-Analysts, Inc.

1. Call to Order

Lew Incze opened the public hearing portion of the meeting at 6:00 p.m. He introduced Lisa Vickers of Eco-Analysts, who represents the applicants, to the committee. No one from the public was in attendance or sent in proffered written comments.

2. Public Hearing of Dimillo's New Pier and Float System

Lew stated that all the applications with the DEP and Army Core of Engineers have been satisfied as has the requirement for deed showing that the property rights extend to the mean low water mark. Lisa gave a quick overview the new pier and float system and answered some questions that were brought up during the site walk.

- Lisa brought an enlarged diagram of the project (page 13 of the packet) and described the design of the project. It will start with a 6'X6' landing in the upland. It will connect to a sloped landing 6'X60' and that will level out and that will connect to a 6'X106' fixed pier. The pier is supported with helical anchors with a bracket and a 10" diameter piling, will take an L that will support a boat lift there. She indicated the seasonal ramp that connects to a 12'X24' float are both seasonal. The ramp will be pulled up off season and stored on the pier and the float will be towed off site and most likely stored at the Chebeague Island Boat Yard for the winter.
- *A concern regarding the helical anchors: is there a depth limitation?*
Custom Floats out of South Portland will be constructing this. They have a lot of experience with helical anchors and have done quite a bit of work in Casco Bay. They stated they are constructed in 4' sections. So if you have to go deeper and deeper, they can continually add those 4' sections. If you go too deep the helical anchor can take an angle or twist. They said it hasn't been an issue for them yet. The deepest they have had to go is 12'. They have been out to the site, done some initial probing in the area and they feel confident they will not have to go any deeper than 12 feet.
- *Another concern raised was in the area where the pier ends is a living shoreline and there is erosion there. Can the distance in the bends be changed to avoid the areas of erosion?*
The distance can only have a maximum span of 22 feet and the plan span is 12 feet. Since there are pilings in the area and the anchors are low impact, they have some room to adjust so they are not on the crumbling edge.
- *Will there be power?*
At some point, underground power will be run from the house to the start of the pier, to a conduit to run along the pier to a control panel on the pier for the boat lift. Lew stated as a reminder that lighting on the pier is a separate consideration. Lighting on the pier would need to comply with the ordinance.
- *Is there a minimum height to pass under the pier?*
You need to allow for fishing, fowling and navigating in the intertidal area. There is not a state height or town

ordinance height requirement, but usually 6 feet is enough for someone to pass under without too much trouble. The diagram indicates the clear distance under the pier is 9 feet.

- *Have the abutters been notified?*

Yes, DEP has notified the direct abutters and the Town notified abutters within 1500 feet of the property. No comments have been received to date.

Lew told Lisa Vickers she should plan to be at Town Council Feb 27th in case there are any questions about the pier and that he would be there to convey the CWC's recommendation. Lew closed the public meeting at 6:18 p.m.

Lew opened up the regular meeting of the Coastal Waters Commission at 6:18 p.m.

Motion: To approve as presented with the stipulations present below:

1. The access ramp will be built on an area with low slope and will inevitably affect the underlying vegetation. We want to reiterate our concern that the structure does not lead to development of an erosional gully.
2. The diagram of the pier does not explicitly show the elevation of the pier structure above the marsh vegetation near the head of tide. The application says this is 6' (complies with DEP requirements regarding shading of intertidal plants). We want to ensure that a person walking along the shore can reasonably proceed underneath the pier while walking along the shore at or near mean high water; that the structure does not create an unreasonable barrier to such movement.

Moved by: Richard Thompson

Seconded by: Bob Vail

Vote: Unanimous



ECO-ANALYSTS, INC.
Environmental Consultants

P.O. Box 224 Bath, Maine 04530
(207) 837 - 2442 • (207) 386-0451 (Fax) • raptor@gwi.net

November 30, 2016

Mr. Bill Shane, Town Manager
Town of Cumberland
290 Tuttle Road
Cumberland, Maine 04021

RE: Wharfing Out Application for a Proposed Dock for Chris Dimillo located at 30 Ferne Lane in Cumberland, Maine

Dear Mr. Shane:

On behalf of Chris Dimillo (Applicant), ECO-ANALYSTS, INC. (EA) requests that the Town of Cumberland's Coastal Water Commission and Town Council consider the application for a proposed dock consisting of an access landing and a pier connected to a seasonal ramp and float in addition to a boat lift. The application shows the proposed dock and how the proposal relates to the Town of Cumberland's Zoning Ordinances.

The project has received approvals from the Maine Department of Environmental Protection (DEP) and the U.S. Army Corps of Engineers (ACOE) and copies of those permits are included with the application materials. A copy of the DEP application is included within this application and includes detailed information including an erosion control plan, a construction plan, an alternatives analysis, and an activity description.

Thank you for the opportunity to present this information to the Town. I look forward to the Coastal Waters Commission meeting. If you require additional information, please feel free to contact me by email at raptor@gwi.net or by phone at (207) 837 - 2442.

Sincerely,

ECO-ANALYSTS, Inc.

Harold L. Brown

President

FOR OFFICE USE ONLY:

PERMIT NO.: _____

ISSUE DATE: _____

FEE AMOUNT: _____

**Town of Cumberland
Shoreland Zoning Permit Application**

GENERAL INFORMATION

1. APPLICANT ECO-ANALYSTS, INC. c/o Bud Brown	2. APPLICANT ADDRESS P.O. Box 224 Bath, ME 04530	3. APPLICANT PHONE NUMBER (207) 837 - 2442
4. PROPERTY OWNER Christopher Dimillo	5. PROPERTY OWNER ADDRESS 30 Ferne Lane Cumberland Foreside, ME 04110	6. PROPERTY OWNER PHONE NUMBER (207) 671 - 3292
7. CONTRACTOR: Custom Floats	8. CONTRACTOR'S ADDRESS: 11 Wallace Avenue South Portland, ME 04106	9. CONTRACTOR'S PHONE NUMBER: (888) 844 - 9666
10. LOCATION / ADDRESS OF PROPERTY 30 Ferne Lane	11. TAX MAP & LOT NUMBER, AND DATE LOT WAS CREATED Tax Map #70 Lot #1	12. ZONING DISTRICT LDR, SOD
13. DESCRIPTION OF PROPERTY INCLUDING A DESCRIPTION OF ALL PROPOSED CONSTRUCTION, E.G. LAND CLEARING, ROAD BUILDING, SEPTIC SYSTEMS AND WELLS (PLEASE NOTE THAT A SITE PLAN SKETCH IS REQUIRED ON PAGE 3) The Applicant proposes to construct a dock consisting of an access landing, a pier and a seasonal ramp, and float for recreational water access to Broad Cove and adjacent coastal water. The project includes the construction of a boat lift to elevate the boat off the substrate during periods of low-tide. The access landing will begin in the upland and will measure six (6) feet wide by six (6) feet long landing and connect to a six (6) foot wide by sixty (60) foot long sloped pier. The pier will level out and extend an additional one hundred and six (106) feet for an overall total length of one hundred and sixty-six (166) feet. The pier will make a right angle to the east to support a boat lift and will measure six (6) feet wide by thirty (30) feet long. The main portion of the pier will connect to a three (3) foot wide by thirty-six (36) foot long ramp and a twelve (12) foot wide by twenty-four (24) foot long float.		
14. PROPOSED USE OF PROJECT Recreational Water Access		15. ESTIMATED COST OF CONSTRUCTION \$100,000

SHORELAND PROPERTY INFORMATION

16. LOT AREA (SQ. FT.) 45302.4 sq. ft.	17. FRONTAGE ON ROAD (FT) N/A
18. SQ. FT. OF LOT TO BE COVERED BY NON-VEGETATED SURFACES N/A	19. ELEVATION ABOVE 100 YEAR FLOOD 12.5' NGVD
20. FRONTAGE ON WATERBODY (FT) ~70 feet	21. HEIGHT OF PROPOSED STRUCTURE Pier Clearance Varies: End of Pier: ~10 feet; Middle of Pier: ~ 6 feet
22. EXISTING USE OF PROPERTY Residential	23. PROPOSED USE OF PROPERTY Residential with Recreational Water Access

NOTE: Questions 24 & 25 apply only to expansions of portions of existing structures which are less than the required setback from the high water mark. N/A

24. A) TOTAL FLOOR AREA OF PORTION OF STRUCTURE WHICH IS LESS THAN REQUIRED SETBACK AS OF 1/1/89 (SQ. FT.)	25. A) TOTAL VOLUME OF PORTION OF STRUCTURE WHICH IS LESS THAN REQUIRED SETBACK AS OF 1/1/89 (CU. FT.)
B) FLOOR AREA OF EXPANSIONS OF PORTION OF STRUCTURE WHICH IS LESS THAN REQUIRED SETBACK FROM 1/1/89 TO PRESENT (SQ. FT.)	B) VOLUME OF EXPANSIONS OF PORTION OF STRUCTURE WHICH IS LESS THAN REQUIRED SETBACK FROM 1/1/89 TO PRESENT (CU. FT.)
C) FLOOR AREA OF PROPOSED EXPANSION OF PORTION OF STRUCTURE WHICH IS LESS THAN REQUIRED SETBACK (SQ. FT.)	C) VOLUME OF PROPOSED EXPANSION OF PORTION OF STRUCTURE WHICH IS LESS THAN REQUIRED SETBACK (CU. FT.)
D) % INCREASE OF FLOOR AREA OF ACTUAL AND PROPOSED EXPANSIONS OF PORTION OF STRUCTURE WHICH IS LESS THAN REQUIRED SETBACK SINCE 1/1/89 (% INCREASE = (B+C)/A x 100)	D) % INCREASE OF VOLUME OF ACTUAL AND PROPOSED EXPANSIONS OF PORTION OF STRUCTURE WHICH IS LESS THAN REQUIRED SETBACK SINCE 1/1/89 (%) (% INCREASE = (B+C)/A x 100)

SITE PLAN

PLEASE INCLUDE: LOT LINES; AREA TO BE CLEARED OF TREES AND OTHER VEGETATION; THE EXACT POSITION OF PROPOSED STRUCTURES, INCLUDING DECKS, PORCHES, AND OUT BUILDINGS WITH ACCURATE SETBACK DISTANCES FROM THE SHORELINE, SIDE AND REAR PROPERTY LINES; THE LOCATION OF PROPOSED WELLS, SEPTIC SYSTEMS, AND DRIVEWAYS; AREAS AND AMOUNTS TO BE FILLED OR GRADED. IF THE PROPOSAL IS FOR THE EXPANSION OF AN EXISTING STRUCTURE, PLEASE DISTINGUISH BETWEEN THE EXISTING STRUCTURE AND THE PROPOSED EXPANSION.

NOTE: FOR ALL PROJECTS INVOLVING FILLING, GRADING, OR OTHER SOIL DISTURBANCE, YOU MUST PROVIDE A SOIL EROSION CONTROL PLAN DESCRIBING THE MEASURE TO BE TAKEN TO STABILIZE DISTURBED AREAS BEFORE, DURING, AND AFTER CONSTRUCTION. (See attached guidelines.)

The grid is a large square area filled with a fine grid of lines, intended for drawing the site plan. In the top-left corner of the grid, there is a small square box containing an upward-pointing arrow and the word "NORTH" below it. In the top-right corner of the grid, the text "Please see attached plan sheets." is written. At the bottom center of the grid, there is a scale bar with the text "Scale: _____ inches = _____ feet." below it.

ADDITIONAL PERMITS, APPROVALS, AND/OR REVIEWS REQUIRED

CHECK IF REQUIRED:

- ☐ PLANNING BOARD REVIEW APPROVAL (e.g. Subdivision, Site Plan Review)
- ☐ BOARD OF APPEALS REVIEW APPROVAL
- ☐ FLOOD HAZARD DEVELOPMENT PERMIT
- ☐ EXTERIOR PLUMBING PERMIT (Approved HHE-200 Application Form)
- ☐ INTERIOR PLUMBING PERMIT
- ☒ D.E.P. PERMIT (Site Location, Natural Resource Protection Act)
- ☒ ARMY CORPS OF ENGINEERS PERMIT (e.g. Sec. 404 of Clean Waters Act)
- ☐ ARMY CORPS OF ENGINEERS PERMIT (e.g. Sec. 404 of Clean Waters Act)

OTHERS:

<input type="checkbox"/>	_____	<input type="checkbox"/>	_____
<input type="checkbox"/>	_____	<input type="checkbox"/>	_____

NOTE: Applicant is advised to consult with the Code Enforcement Officer and appropriate State and Federal agencies to determine whether additional permits, approvals, and reviews are required.

I CERTIFY THAT ALL INFORMATION GIVEN IN THIS APPLICATION IS ACCURATE. ALL PROPOSED USES SHALL BE IN CONFORMANCE WITH THIS APPLICATION AND THE CUMBERLAND SHORELAND ZONING ORDINANCE. I AGREE TO FUTURE INSPECTIONS BY THE CODE ENFORCEMENT OFFICER AT REASONABLE HOURS.

APPLICANT'S SIGNATURE



AGENT'S SIGNATURE (if applicable)

DATE

November 21, 2016

DATE

* If the person signing the application is not the owner or lessee of the property, then that person shall submit a letter of authorization from the owner or lessee.

APPROVAL OR DENIAL OF APPLICATION
(For Office Use Only)

THIS APPLICATION IS:

MAP _____ LOT _____

☐ APPROVED

☐ DENIED

IF APPROVED, THE FOLLOWING CONDITIONS ARE PRESCRIBED:

IF DENIED, REASON FOR DENIAL:

NOTE: IN APPROVING A SHORELAND ZONING PERMIT, THE PROPOSED USE SHALL COMPLY WITH THE PURPOSES AND REQUIREMENTS OF THE SHORELAND ZONING ORDINANCE FOR THE TOWN OF CUMBERLAND.

CODE ENFORCEMENT OFFICER

DATE

* This permit will expire one year from the date of issuance, if no substantial start is made in construction.

INSPECTION CHECKLIST:

☐ Prior to Clearing and Excavation

☐ Prior to Foundation Pour

☐ Prior to Final Landscaping

☐ Prior to Occupancy

Permit # _____

Fee Amount _____

**Town of Cumberland
Zoning Ordinance, Land Use Standards
Section 226-25 (D)**

The following standards shall apply to all piers, docks, wharves, floats, bridges, and other structures and uses extending over or beyond the normal high-water line of a water body, submerged lands, or wetland:

(1) Access from the shore shall be developed on soils appropriate for such use and constructed so as to control erosion.

The pier will be supported with helix anchors and pilings. All materials will be transported to the site by boat or accessed from adjacent upland areas. The helix anchors will be installed hydraulically. The anchors are held in place and the power head winds the helix into the ground, resulting in minimal soil disturbance. Pilings will be connected to the anchor with a bracket. There will not be large machinery operating within the marsh vegetation. As a result of these measures, the Applicant does not anticipate measureable causes of erosion.

(2) The location shall not interfere with existing developed or natural beach areas.

The location does not contain existing developed or natural beach areas.

(3) The facility shall be located so as to minimize adverse effects on fisheries.

The proposed structures have been positioned to extend a reasonable distance from the marsh vegetation and will provide partial tide access. The float will be elevated with float skids to minimize impacts to the mudflats during periods of low tides. In addition, the ramp and float will be in place on a seasonal basis, further minimizing impacts to fisheries. There are no wildlife refuges or fish hatcheries in the location of the project according to the U.S. Fish and Wildlife Service's IPAC database. The project has been reviewed by the Maine Department of Environmental Protection (DEP) and the Army Corps of Engineers (ACOE) and no fishery concerns were identified by those reviews.

(4) The facility shall be no larger in dimension than necessary to carry on the activity and be consistent with the surrounding character and uses of the area. A temporary pier, dock, or wharf in nontidal waters shall not be wider than six feet for noncommercial uses.

The proposed structures are the minimum length necessary to span the intertidal vegetation and obtain reasonable recreational water access on a partial-tide basis. There are other structures of similar scale located within the project vicinity. At the request of the Maine Department of Inland Fisheries and Wildlife (MDIFW), the Applicant modified the orientation of the float to minimize how far the structure extends within the coastal wetland.

(5) No new structure shall be built on, over or abutting a pier, wharf, dock or other structure extending beyond the normal high-water line of a water body or within a wetland unless the structure requires direct access to the water body or wetland as an operational necessity.

N/A

(6) New permanent piers and docks on nontidal waters shall not be permitted unless it is clearly demonstrated to the Coastal Waters Commission that a temporary pier or dock is not feasible and a permit has been obtained from the Department of Environmental Protection pursuant to the Natural Resources Protection Act.

The Applicant considered a temporary dock as stated in the Exhibit 2.0 of the attached Natural Resources Protection Act (NRPA) application. However, in order to reach the intertidal area and then span this area, the Applicant determined a permanent pier would be required for safety and stability purposes as well as to minimize impacts to the marsh vegetation.

(7) No existing structures built on, over or abutting a pier, dock, wharf or other structure extending beyond the normal high-water line of a water body or within a wetland shall be converted to residential dwelling units in any district.

N/A

(8) Except in the General Development District, structures built on, over or abutting a pier, wharf, dock or other structure extending beyond the normal high-water line of a water body or within a wetland shall not exceed 20 feet in height above the pier, wharf, dock or other structure.

N/A

(9) Structures shall not unduly interfere with passage along or within the intertidal zone in order to protect established colonial rights for fishing, fowling, and navigation. This may require accommodations such as steps or pier elevation to allow passage over or beneath a structure.

The pier will be elevated approximately six (6) feet in height and will provide for passage underneath the structure.

(10) Where the applicant has applied for "group dock" and the waterfront structure proposed will serve more than one property, the property owners shall submit to the Town a proposed easement deed demonstrating that permanent access and maintenance rights shall be granted to the parties sharing the structure. The parties shall submit to the Code Enforcement Officer proof of recording of the easement after its review and approval by the Town.

N/A

(11) Storage of floats, ramps, and pier accessories is prohibited within the intertidal zone.

The ramp will be stored on the pier and the float will be removed at the end of the season, towed, and stored to an off-site storage location, most likely the Chebeague Island Boat Yard.

(12) Storage of floats, ramps, and pier accessories must comply with all federal, state, and local shoreland zoning rules and regulations.

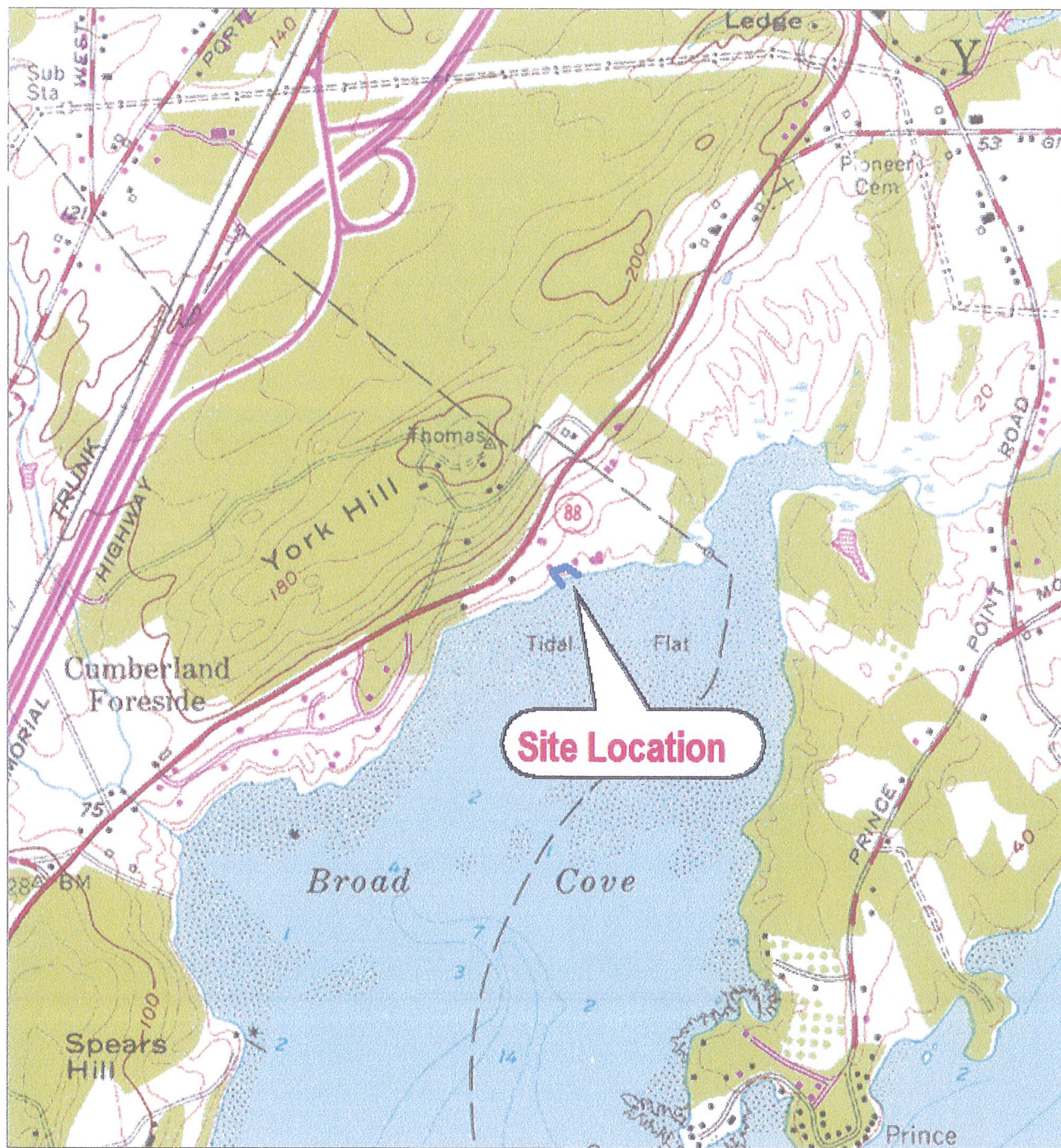
Please see #11.

(13) Lighting on piers, wharves, docks, bridges, floats and other structures should be designed and installed to minimize negative impacts on other properties and to promote safe navigation at night. Negative impacts include excessive lighting and unnecessary glare that can be a hazard to navigation.

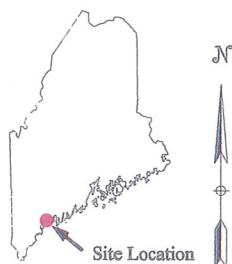
The Applicant does not propose lighting for the dock.

EXHIBIT 3.0

Location Map for Christopher Dimillo. Parcel is Located at 30 Ferne Lane in Cumberland Foreside, Maine.



Directions: From the Yarmouth exit on 295, follow Route 88 south for approximately 1.4 miles. Turn left onto Ferne Lane, subject parcel is the last house on the road.




Notes:			ECO-ANALYSTS, INC. ENVIRONMENTAL CONSULTANTS	
Maine Atlas & Gazetteer Map 6 (Section D-1) 43.775590°N 70.181329°W			P.O. BOX 224 BATH, MAINE 04530 (207) 837-2199 Fax (207) 386-0451 timforrester@comcast.net	
Date:		DWG Name:		
6/14/2016		Chris Dimillo Site Location		

EXHIBIT 4.0: PHOTOGRAPHS

The following photographs are taken from the site of the project and represent the proposed location of the dock and the surrounding area at 30 Ferne Lane, Cumberland, ME.



Photograph One. Facing southerly - View of coastal wetland from upland. Photographer: Lisa Vickers, ECO-ANALYSTS, INC. Date: June 9, 2016.



Photograph Two. Facing easterly - view of adjacent dock on abutting parcel. Photographer: Lisa Vickers, ECO-ANALYSTS, INC. Date: June 9, 2016.



Photograph Three. Facing easterly - view of upper intertidal and abutting dock. Photographer: Lisa Vickers, ECO-ANALYSTS, INC. Date: June 9, 2016.



Photograph Four. Facing westerly – view of upper intertidal in area of proposed dock. Photographer: Lisa Vickers, ECO-ANALYSTS, INC. Date: June 9, 2016.



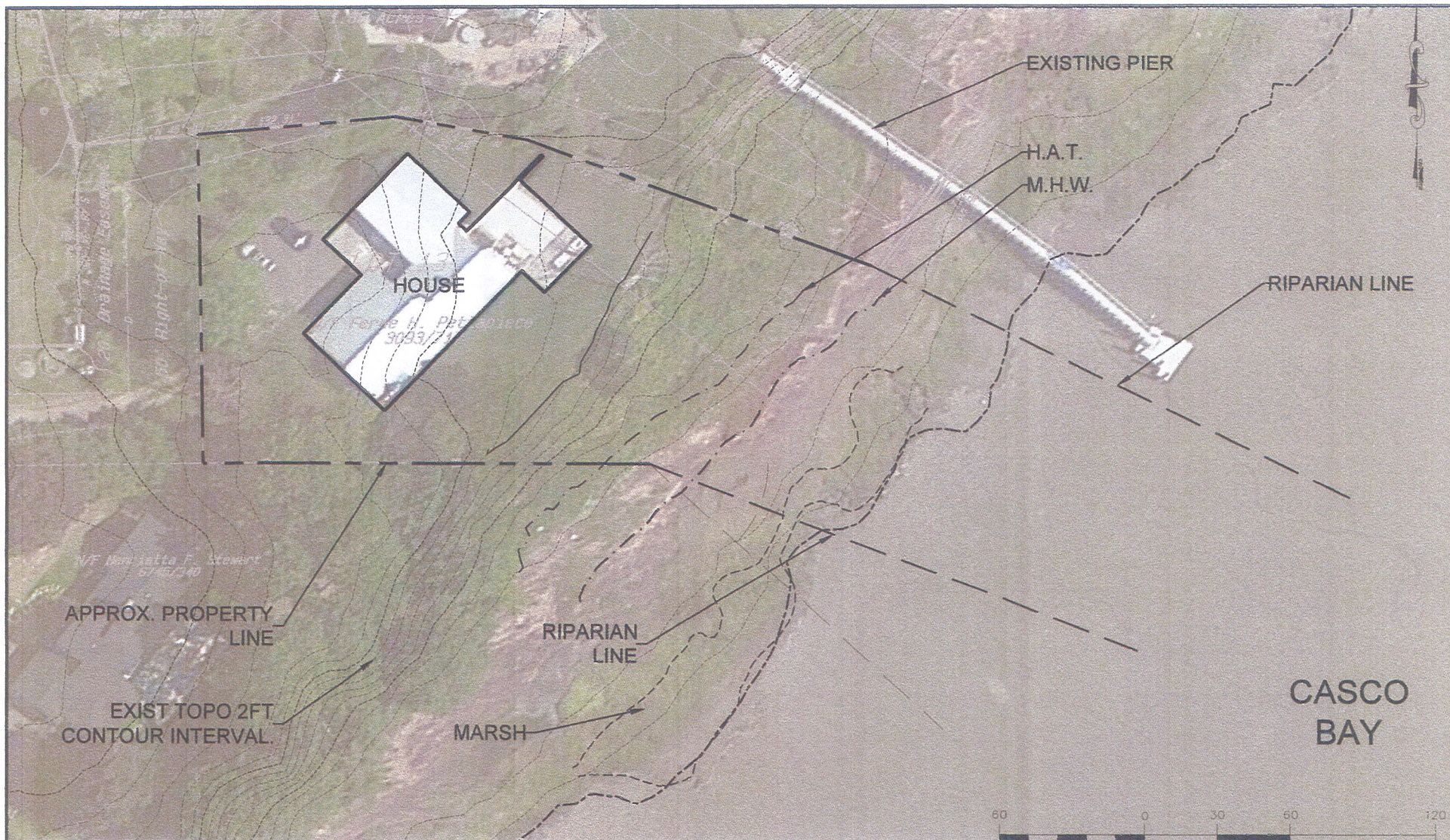
Photograph Five. Aerial view of project site – red arrow indicates approximate location of proposed dock. Note existing docks visible from the resource. Source: Bing. Date: Unknown.



Photograph Six. Example of proposed type of boat lift to be constructed by the Applicant. Source: Deco Boat Lift.

SCENIC DESCRIPTION

The shoreline at the project site and the surrounding area is moderately developed, primarily with residential structures that are visible from the coastal wetland. There are existing docks associated with residential structures located within Broad Cove and visible from the resource. Given the existing development in the project area, the Applicant determined that the proposed dock will be compatible within the viewshed of the resource, will not result in contrast in scale, and will not result in spatial dominance within the viewshed of the resource.



(IN FEET)
1 inch = 60 ft.

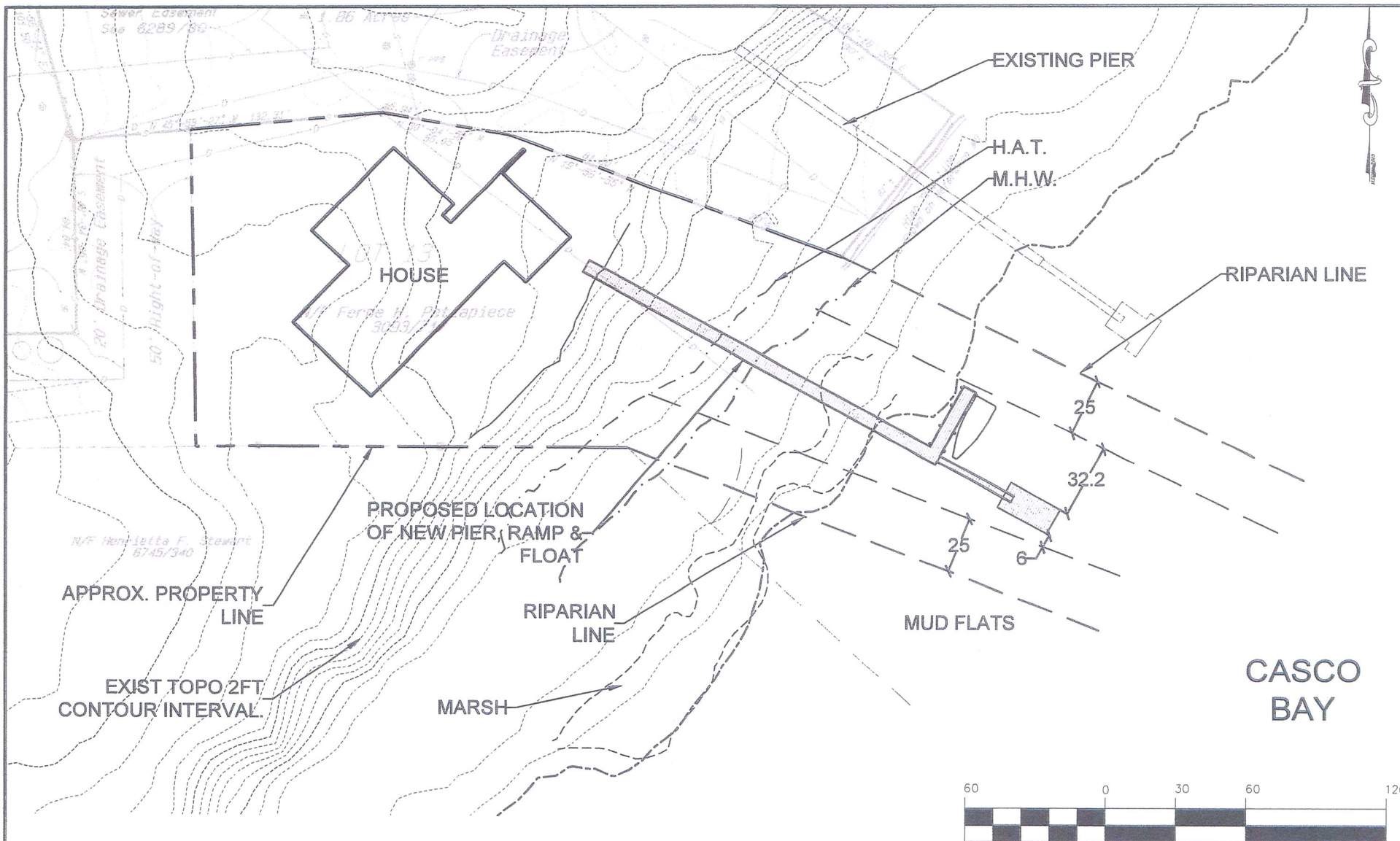


ECO-ANALYSTS, INC.
ENVIRONMENTAL CONSULTANTS
P.O. BOX 224 BATH, MAINE 04530
(207) 837-2199 Fax (207) 386-0451
timforrester@comcast.net

Date: 8/24/2016
Drafted By: TF/SS

Detailed Existing Conditions Plan of the Property at
Dimillo Residence at 30 Ferne Lane property in
Cumberland, Maine.

Sheet
1
of
3



(IN FEET)
1 inch = 60 ft.

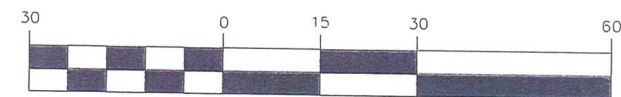
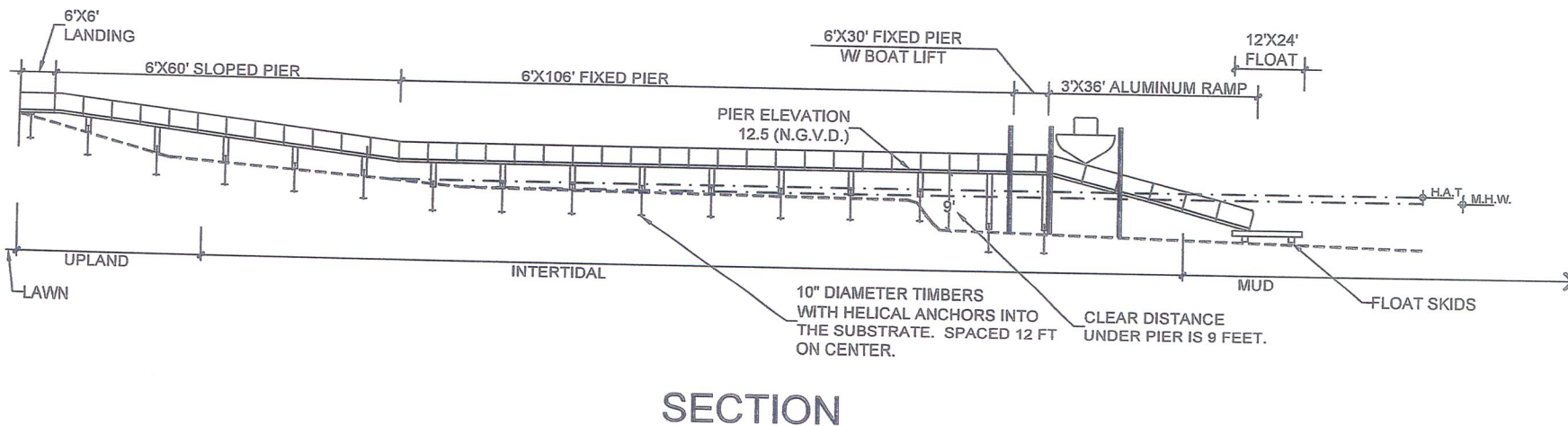
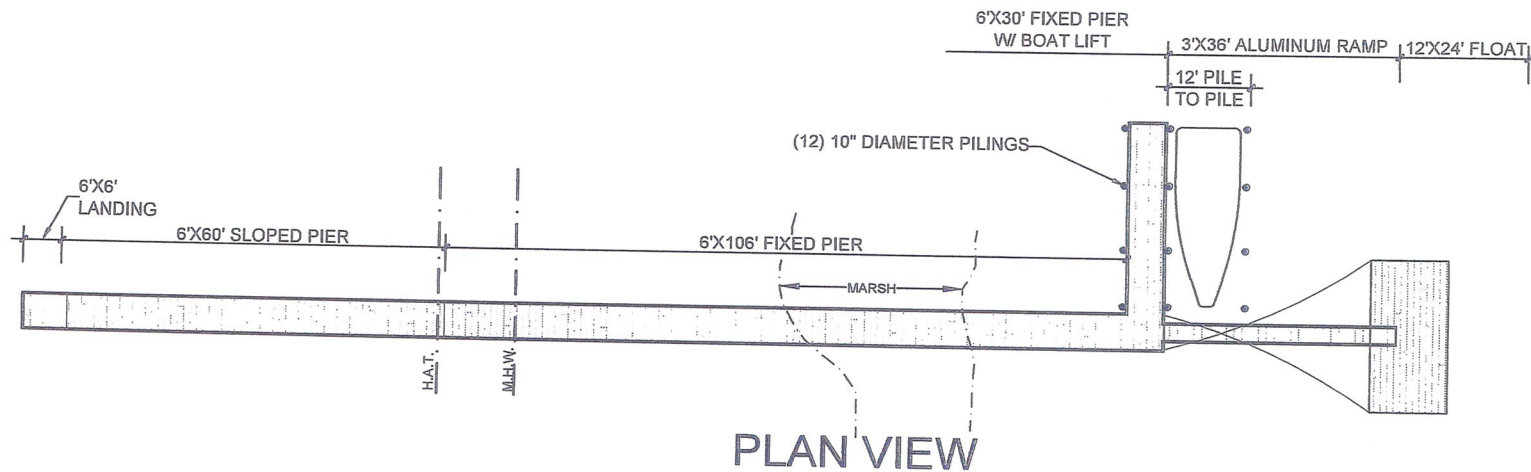


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(207) 837-2199 Fax (207) 386-0451
timforrester@comcast.net

Date: 8/24/2016
Drafted By: TF/SS

Detailed Plan View of the Proposed Pier, Ramp & Float
at Dimillo Residence at 30 Ferne Lane property in
Cumberland, Maine.

Sheet
2
of
3



(IN FEET)
1 inch = 30 ft.



ECO-ANALYSTS, INC.
ENVIRONMENTAL CONSULTANTS
P.O. BOX 224 BATH, MAINE 04530
(207) 837-2199 Fax (207) 386-0451
timforrester@comcast.net

Date: 1/9/2017
Drafted By: TF/SS

Detailed Plan View of the Proposed Pier, Ramp & Float
at Dimillo Residence at 30 Ferne Lane property in
Cumberland, Maine.

Sheet
3
of
3

EXHIBIT 6.0: CONSTRUCTION PLAN

The pier will be supported with pilings and helix anchors as described in **Exhibit 1.0**. Any CCA-treated lumber used for the construction of the dock will be cured on dry land for 21 days prior to the start of construction.

All materials will be transported to the site by boat or accessed from adjacent upland areas. The helix anchors will be installed hydraulically. The anchors are held in place and the power head winds the helix into the ground, resulting in minimal soil disturbance. Pilings will be connected to the anchors with a bracket. The pilings for the boat lift will be driven to refusal with the use of a vibratory hammer. The ramp and float will be constructed off-site and set in place once the pier is constructed. Construction access will take place from the adjacent upland and by boat. It is not anticipated that measureable soil disturbance will occur as a result of the construction of the dock. It is estimated that the construction of the dock should take approximately two (2) weeks.

EXHIBIT 7.0: EROSION CONTROL PLAN

The project involves minimal excavation and/or earth moving. All work will be conducted at low tide and wood mats will be used during the installation of the helix anchors. Given that minimal sedimentation, if any, will occur for the construction of the dock, no formal measures are proposed to control erosion or sedimentation.