

THE STATE OF SOUTH CAROLINA
IN THE COURT OF APPEALS

RECEIVED
MAY 12 2014
SC Court of Appeals

Appeal from the South Carolina Administrative Law Court

Shirley C. Robinson, Administrative Law Court Judge

Case No. 12-ALJ-07-0050-CC

James R. Maull,

Appellant,

v.

South Carolina Department of Health and
Environmental Control and David Abdo,

Respondents,

and Russell and Laura Schaible,

Respondents.

SUPPLEMENTAL RECORD ON APPEAL

YOUNG CLEMENT RIVERS, LLP

Michael A. Molony

25 Calhoun Street, Suite 400

Charleston, SC 29401

P.O. Box 993 (29402)

(843) 724-6631

Attorney for the Appellant, James R. Maull

(Other Counsel of Record on the Next Page)

Nathan M. Haber, Esquire
Staff Counsel
South Carolina Department of Health and
Environmental Control
1362 McMillan Avenue, Suite 400
North Charleston, SC 29405
(843) 953-0229

***Attorney for the Respondent South
Carolina Department of Health and
Environmental Control***

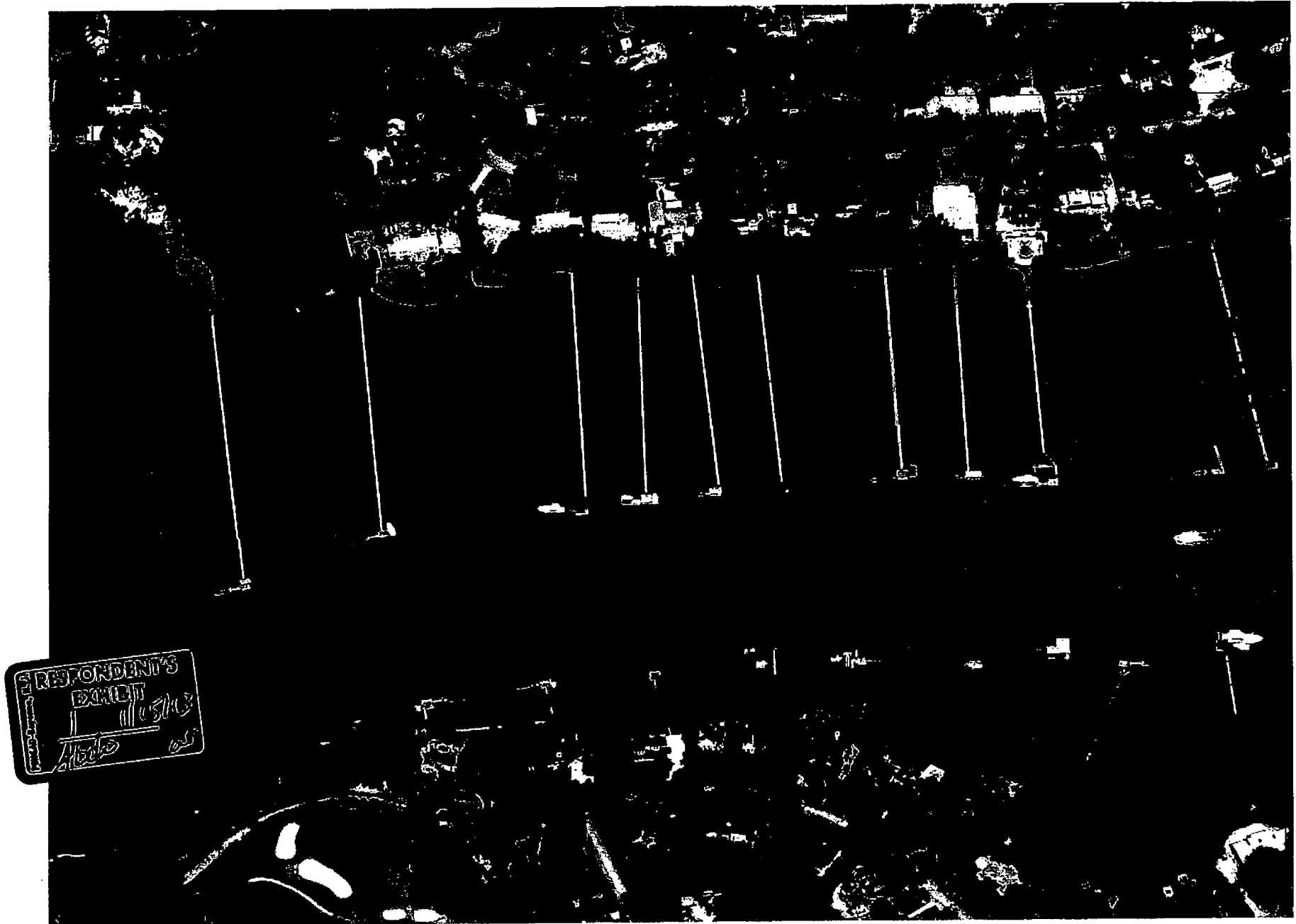
MCNAIR LAW FIRM, P.A.
Leslie S. Riley, Esquire
100 Calhoun Street, Suite 400
Charleston, SC 29401
P.O. Box 1431 (29402)
(843) 723-7831

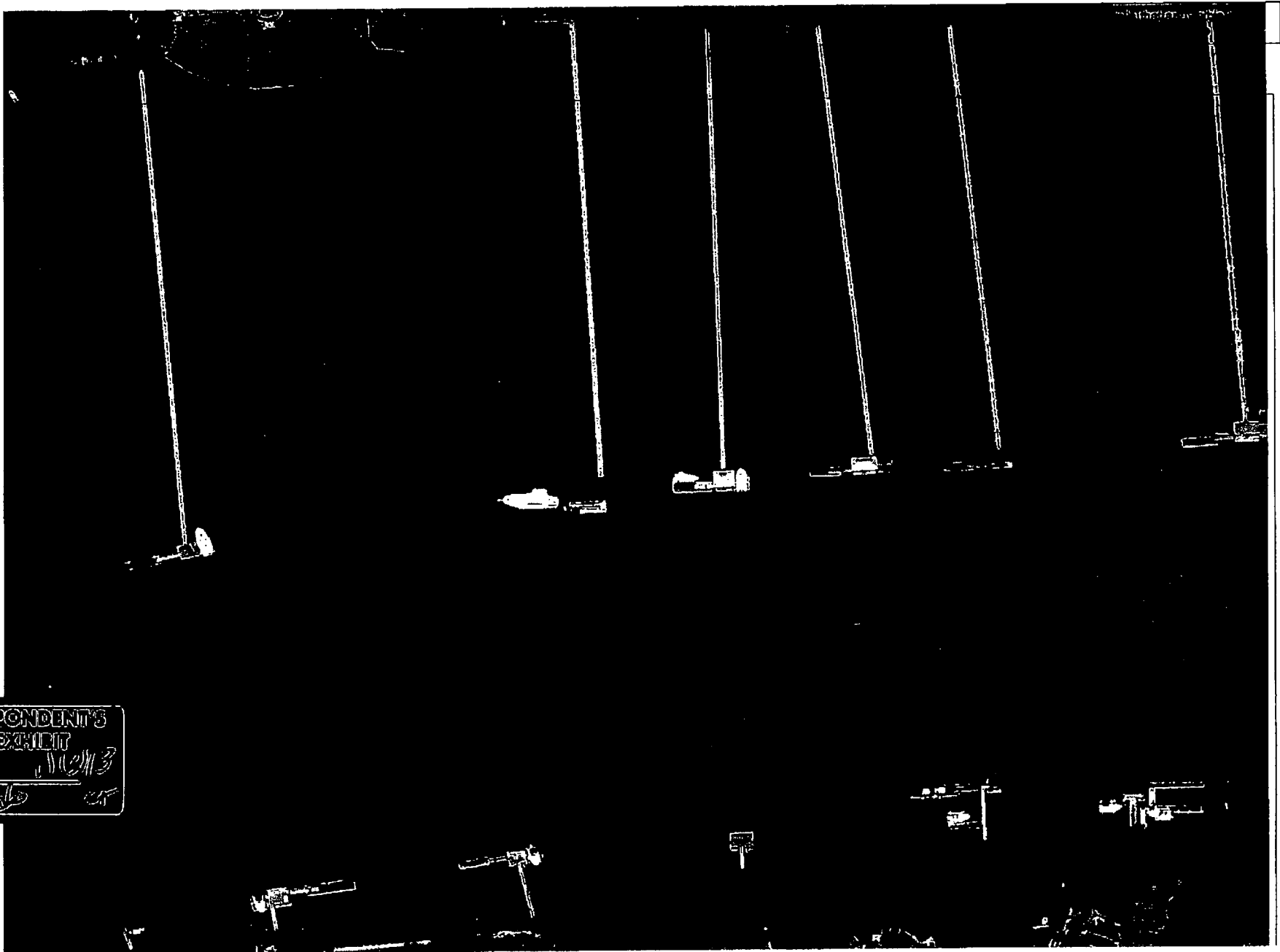
***Attorney for the Respondents Russell and
Laura Schaible***

David Abdo
Charleston, SC 29407
Respondent, Pro Se

INDEX

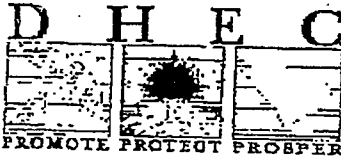
1. Abdo Administrative Law Court Hearing Exhibit 1	001
2. Abdo Administrative Law Court Hearing Exhibit 2	002
3. Abdo Administrative Law Court Hearing Exhibit 3	003
4. Abdo Administrative Law Court Hearing Exhibit 4	004
5. Abdo Administrative Law Court Hearing Exhibit 5	005
6. Abdo Administrative Law Court Hearing Exhibit 6	006
7. Abdo Administrative Law Court Hearing Exhibit 7	007
8. Abdo Administrative Law Court Hearing Exhibit 8	008
9. Abdo Administrative Law Court Hearing Exhibit 9	010
10. Certificate of Counsel	014





20

RESPONDENT'S
EXHIBIT
2 1/24/13
Aldo CF



PERMIT APPLICATION

61064

7110000001

S.C. Department of Health and Environmental Control
Office of Ocean and Coastal Resource Management

<u>Charleston</u> 744-5838 744-5847 (fax)	<u>Beaufort</u> 846-9400 846-9810 (fax)	<u>Myrtle Beach</u> 626-7217 626-2381 (fa
---	---	---

NAME AND MAILING ADDRESS OF APPLICANT:

Mr. James R. Maul, Sr.
27 Broughton Rd
Charleston SC 29407

NAME AND MAILING ADDRESS OF AUTHORIZED AGENT:

(If an agent is listed, all correspondence will be sent to the agent)
Waters Deep, Inc.
Post Office Box 12880
Charleston, SC 29412

PHONE #: (Bus.) (843) 766-0591
(Home) _____
(Fax) _____

PHONE #: (Bus.) (843) 330-3505
(Home) _____
(Fax) (843) 763-6077

DESCRIBE THE DIMENSIONS, GENERAL SPECIFICATIONS, AND PURPOSE OF THE PROJECT:

The applicant requests permission to replace the existing 6' x 30' floater (180 sqft), 5' x 16' floater (80 sqft), and 10' x 30' floater (300 sqft) - (Total existing square footage = 560 sqft) with a new 6' x 20' floater (120 sqft) and a 10' x 44' floater (440 sqft) - (Total replacement square footage = 560 sqft). The 3' x 20' gangway will be moved to the front of the pier and attached to a new 4' x 4' walkway. The work as described is for the applicant's private recreational use.

NAMES AND COMPLETE MAILING ADDRESSES OF ADJOINING PROPERTY OWNERS: (If the applicant owns adjoining property, give name and address of nearest property not owned by applicant.)

<u>Charles Palmer</u> _____ _____ _____	<u>Ashley Davis</u> _____ _____ _____
--	--

(Attach additional sheet of paper if necessary.)

RECEIVED

DEC 13 2007

DHEC-OCRM CHARLESTON OFFICE

LOCATION OF THE PROJECT (Address and directions to the site):

From the Crosstown follow US-17 S to Folly Road go 0.6 miles. Turn left onto Broughton Rd. Turn right to stay on Broughton Rd. 27 Broughton Rd is on the right.

COUNTY: Charleston

TAX MAP NUMBER (Required on all applications): 421-14-00-025

LOCAL GOVERNING BODY WITH JURISDICTION OVER Charleston County

NAME OF WATERWAY: Wappoo Creek





September 24, 1992

**SOUTH
CAROLINA
COASTAL
COUNCIL**

Mr. James R. Maul
27 Broughton Road
Charleston, South Carolina 29407

Re: P/N# 89-3E-091-P
Wappoo Creek, Charleston Co.

Ashley Corporate Center
4130 Faber Place
Suite 300
Charleston, S.C. 29405
(803) 744-5838
FAX 744-5847

William W. Jones, Jr.
Chairman

H. Wayne Beam, Ph.D.
Executive Director

Dear Mr. Maul:

The above referenced permit has been amended to allow the installation of a 6' by 30' floating dock landward of the existing floating dock. This amendment is made a part of your permit and is subject to the full terms of the permit as issued.

This letter does not relieve you of the responsibility of acquiring any other applicable federal or local permits that may be required. Any person adversely affected by this action has the right of direct appeal to the Council within 15 days of notification.

Please sign the attached copy of this letter indicating your acceptance of these terms and return the signed copy to this office.

Sincerely,

Steve Moore
Permit Administrator

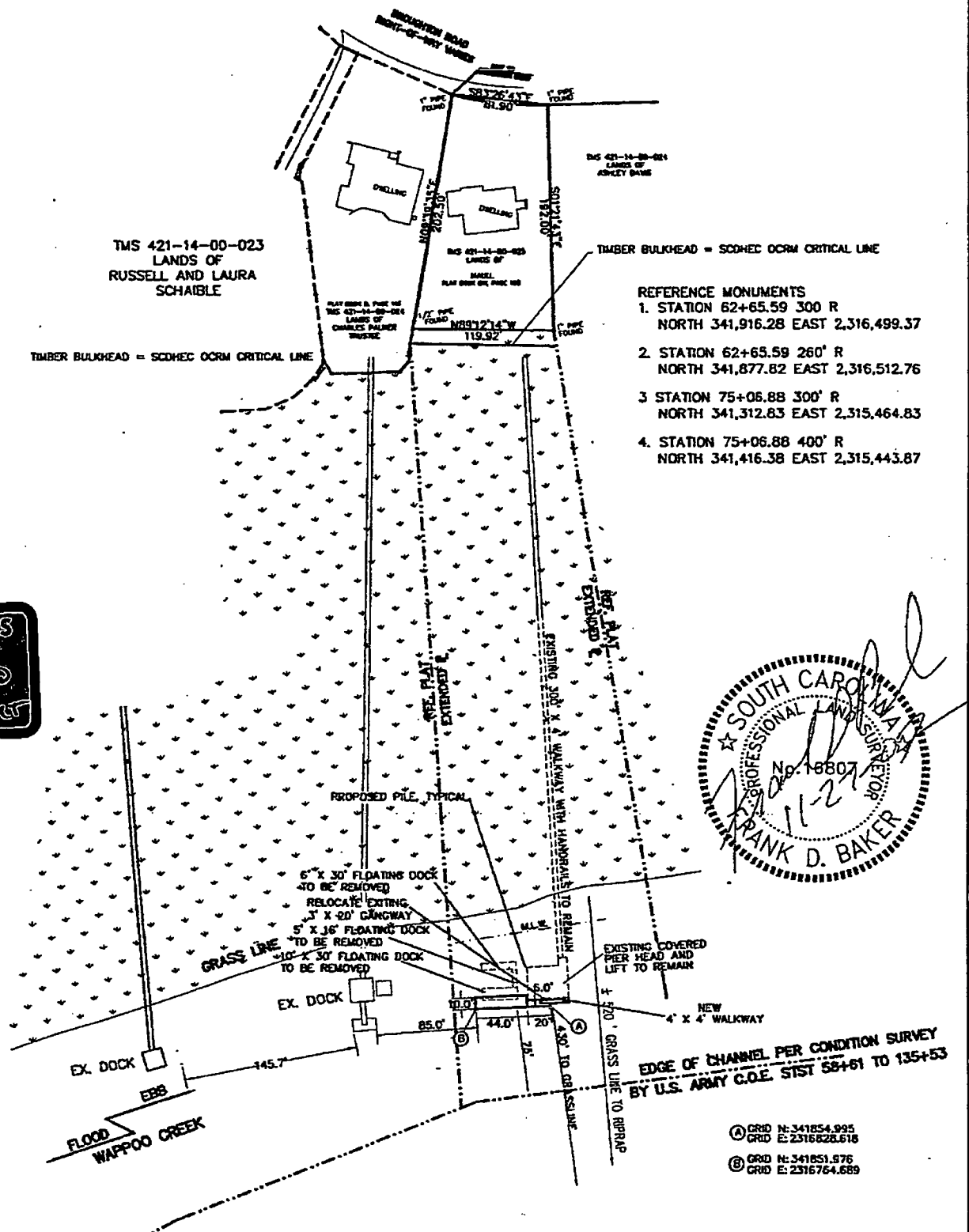
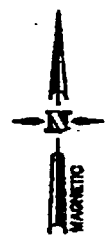
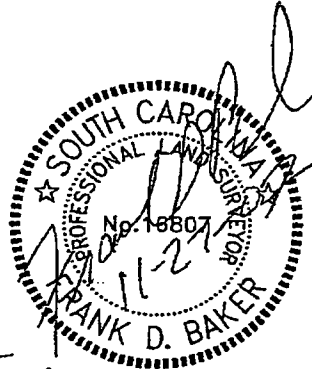
SM:0026M(3)
enclosure

cc: Dr. H. Wayne Beam
Mr. John L. Hensel
Corps of Engineers
Enforcement Officer
Regional Office



TMS 421-14-00-023
LANDS OF
RUSSELL AND LAURA
SCHAIBLE

- REFERENCE MONUMENTS
1. STATION 62+65.59 300' R
NORTH 341,916.28 EAST 2,316,499.37
 2. STATION 62+65.59 260' R
NORTH 341,877.82 EAST 2,316,512.76
 3. STATION 75+06.88 300' R
NORTH 341,312.83 EAST 2,315,464.83
 4. STATION 75+06.88 400' R
NORTH 341,416.38 EAST 2,315,443.87



PROPOSED: PRIVATE DOCK
MODIFICATION

ADJACENT OWNERS:
1. CHARLES PALMER

2. ASHLEY DAVIS
MAULL

FIGURE 1
PLAN VIEW
SCALE 1" = 125'

MR. JAMES MAULL SR.
27 BROUGHTON ROAD
CHARLESTON SC 29407

PROPOSED: PRIVATE DOCK
MODIFICATION
WATERWAY: WAPPOO CREEK
COUNTY OF: CHARLESTON, SC
APPLICATION BY: CHARLES PALMER

P/N #/: TBD
DATE: 11-5-07

NOTE:

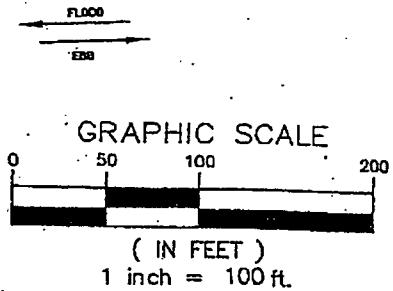
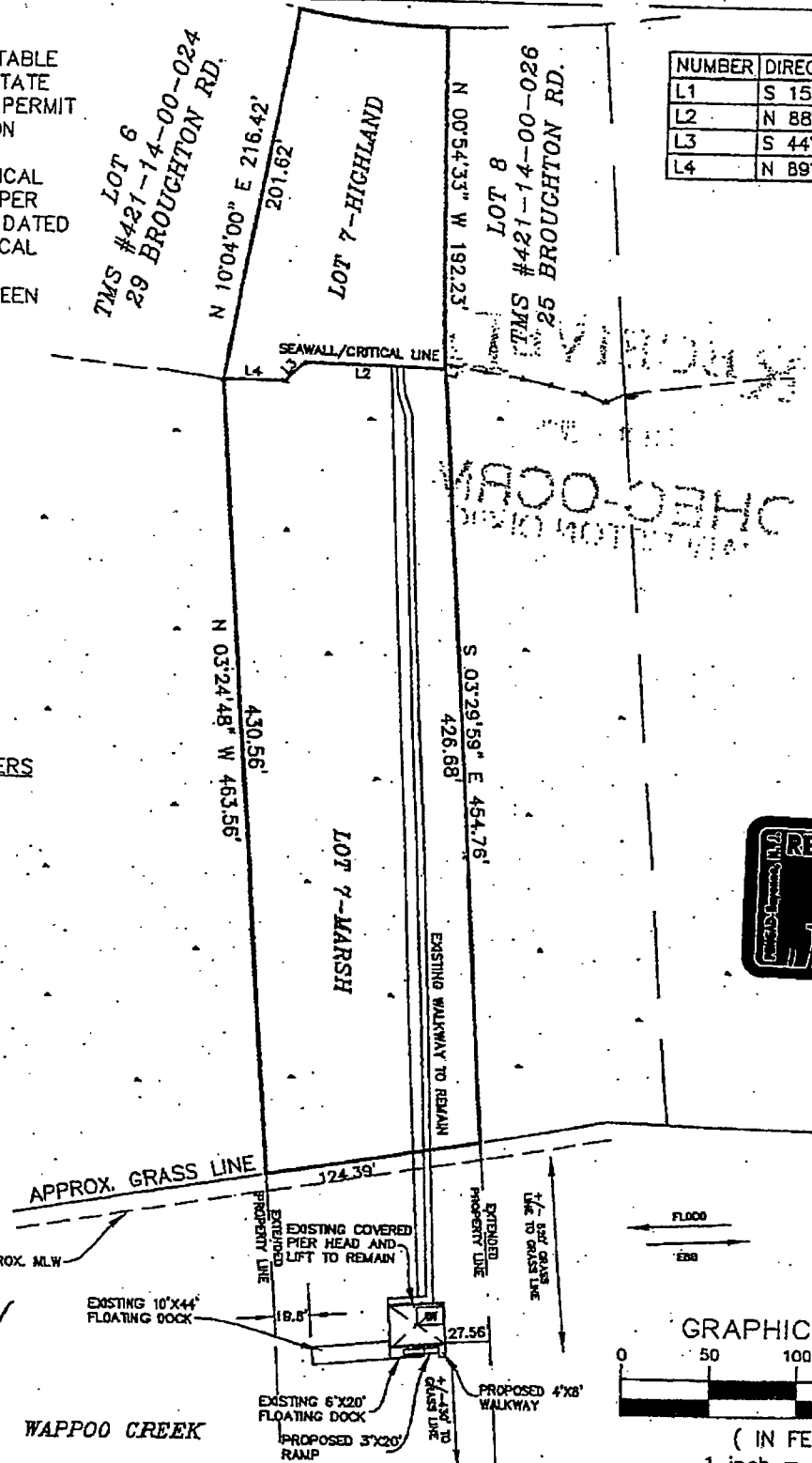
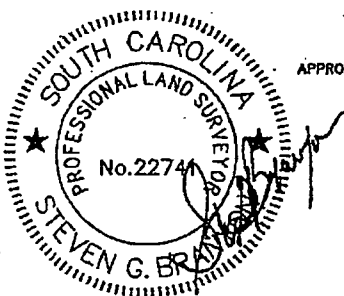
1. THIS IS NOT A PLAT SUITABLE FOR TRANSFER OF REAL ESTATE TITLE. INTENDED FOR DOCK PERMIT USE ONLY. FOR ILLUSTRATION PURPOSES ONLY.
2. ALL PROPERTY AND CRITICAL LINES SHOWN HEREON ARE PER PLAT BY ROBERT L. FRANK DATED JUNE 28, 2007. OCRM CRITICAL LINE APPROVED 7/12/07.
3. NO SURVEY WORK HAS BEEN PERFORMED BY THIS FIRM.

NUMBER	DIRECTION	DISTANCE
L1	S 15°55'42" W	3.62'
L2	N 88°19'01" W	76.97'
L3	S 44°46'46" W	15.34'
L4	N 89°44'08" W	33.75'

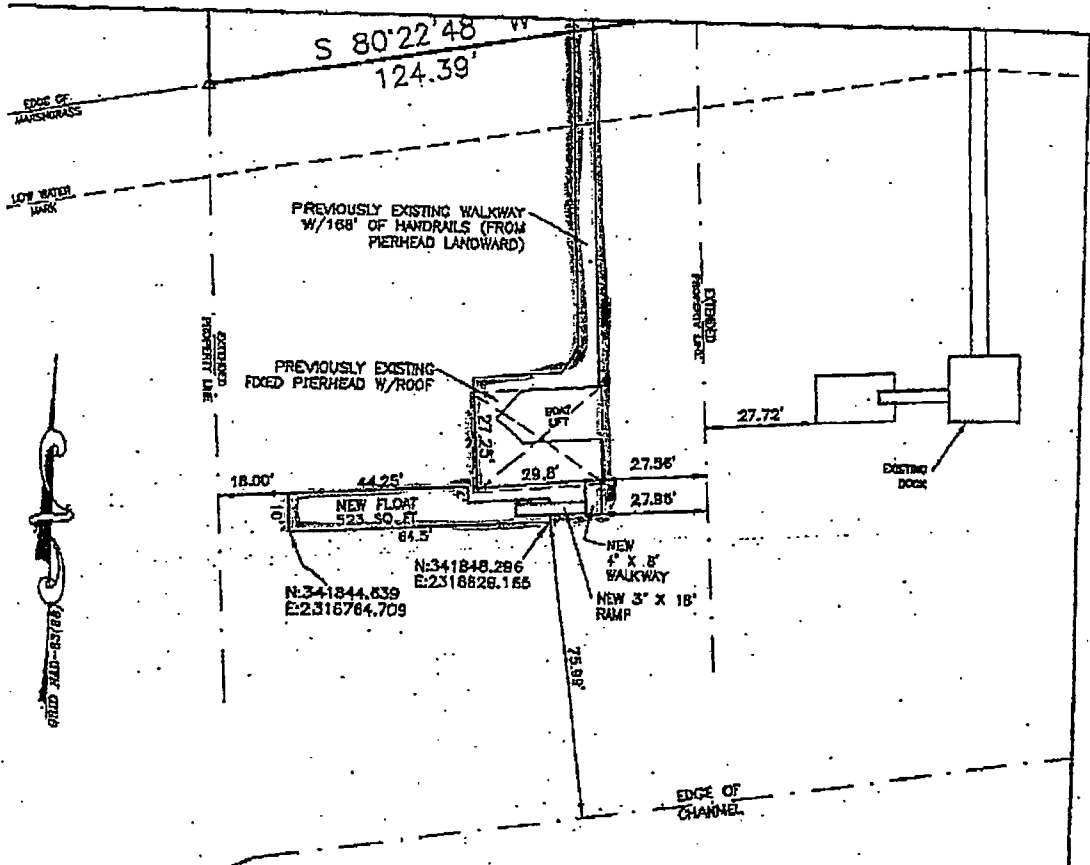


ADJACENT PROPERTY OWNERS

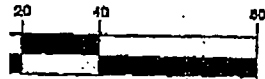
1. DAVID ABDO
2. ASHLEY DAVIS



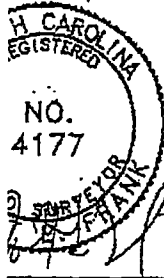
ACTIVITY	PRIVATE DOCK MODIFICATION	FIGURE 3 PLAN VIEW AT THE REQUEST OF JAMES MAULL SR. 27 BROUGHTON ROAD CHARLESTON, SC 29407	PROPERTY DESIGNATION	LOT 7
WATERBODY	WAPOO CREEK		TAX MAP #	421-14-00-025
LOCATION	27 BROUGHTON RD		DEED REFERENCE	
PERMIT #			PLAT REFERENCE	EK-960
DATE	12/1/08		COUNTY	CHARLESTON



GRAPHIC SCALE



(IN FEET)
1 inch = 40 ft.



WAPPOO CREEK ATLANTIC INTRACOASTAL WATERWAY

- ADJOINING PROPERTY OWNERS:
 1. SONYA TAYLOR AND DAVID ABDO
 2. DONALD AND ASHLEY DAVIS

BY: MAULL 7 BROUGHTON RD. MBER 14, 2009	LOCATION A DOCK AS BUILT OF 27 BROUGHTON RD., (OCRM-07-33-Y) LOCATED ON WAPPOO CREEK IN THE CITY OF CHARLESTON CHARLESTON COUNTY SOUTH CAROLINA	SHT. NAME MAGNIFIED PLAN VIEW TMS #4-21-14-00-025	SHT. NO. 2 OF 2
--	--	--	------------------------

ADJOINING PROPERTY OWNERS:
 1. SONYA TAYLOR AND DAVID ABDO
 2. DONALD AND ASHLEY DAVIS

LOT 6
 TMS #421-14-00-024
 28 BROUGHTON RD.

LOT 8
 TMS #421-11-00-021
 28 BROUGHTON RD.

LOT 7

NUMBER	DIRECTION	DISTANCE
L1	S 15°53'42" W	3.62'
L2	N 88°10'01" W	78.97'
L3	S 44°46'46" W	13.34'
L4	N 89°44'08" W	33.75'

NUMBER	CI
DELTA ANGLE	1°57'48"
CHORD DIRECTION	S 83°45'39" E
TANGENT	41.39
RADIUS	315.20
ARC LENGTH	82.32
CHORD LENGTH	82.00

BROUGHTON ROAD
 60' R/W

N 10°04'00" E 218.42'

N 00°34'33" W 192.23'

N 03°24'48" W 163.56' (DIRECTION AS SCALED FROM PLAT IN BOOK O PAGE 116)

N 05°28'59" E 454.78' (DIRECTION AS SCALED FROM PLAT IN BOOK O PAGE 116)

S 80°22'18" W 124.39'

N 34°18'2.131
 E 231°68'38.382

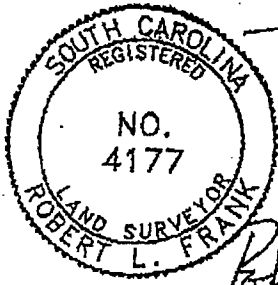


GRAPHIC SCALE

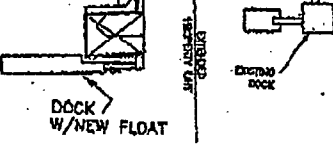
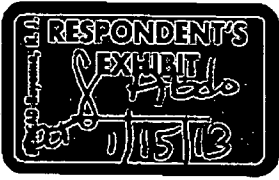


(IN FEET)

1 inch = 100 ft.



BAH



EDGE OF CHANNEL
 WAPPOO CREEK
 ATLANTIC INTRACOASTAL WATERWAY

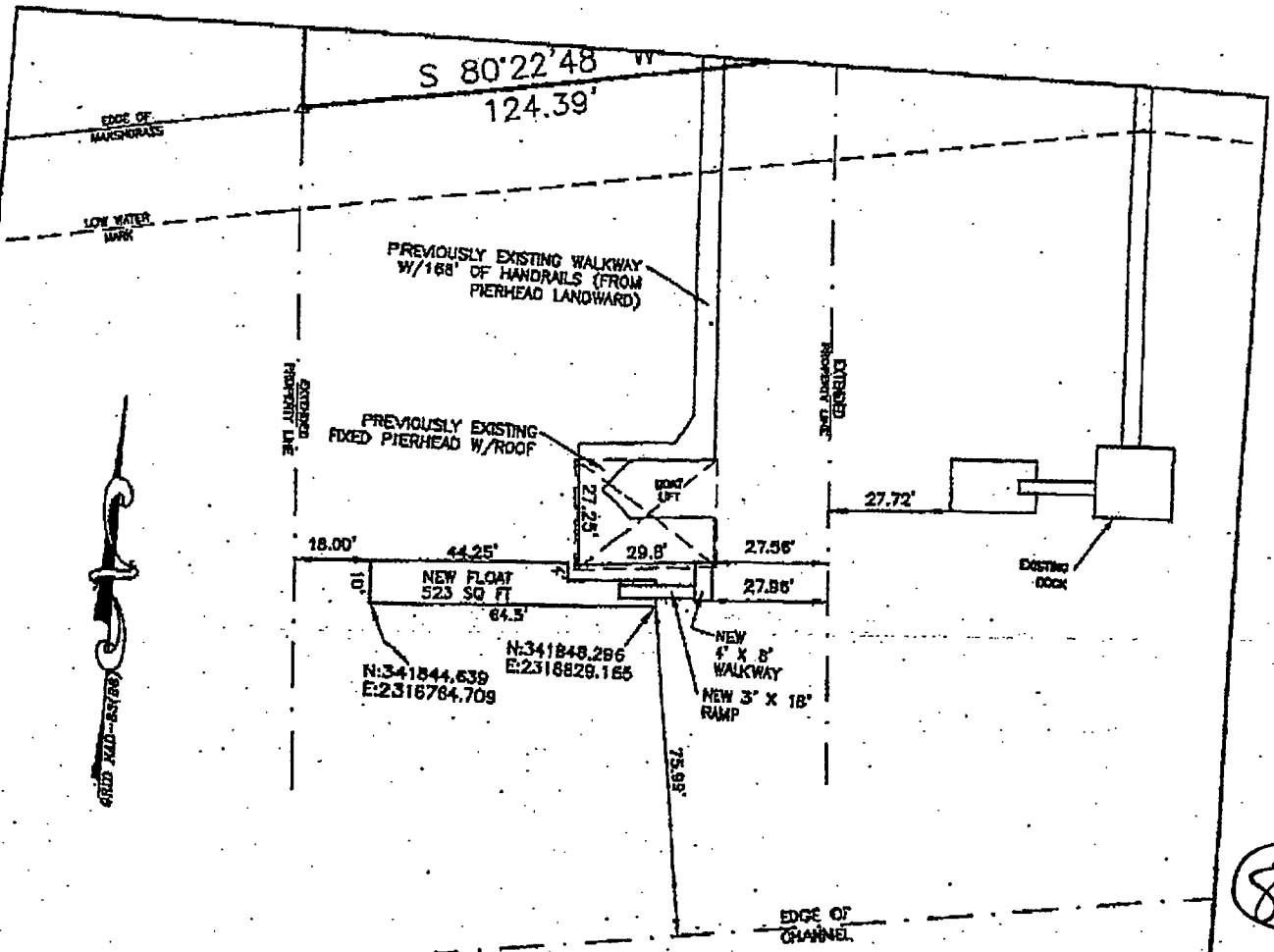
APPLICATION BY:
 JAMES R. MAULL
 ADDRESS: 27 BROUGHTON RD.
 SEPTEMBER 14, 2009
 REVISED:

LOCATION
 A DOCK AS BUILT
 OF 27 BROUGHTON RD.
 (OCRM-07-33-Y)
 LOCATED ON WAPPOO CREEK
 IN THE CITY OF CHARLESTON
 CHARLESTON COUNTY
 SOUTH CAROLINA

SHT. NAME
 FULL PLAN
 VIEW

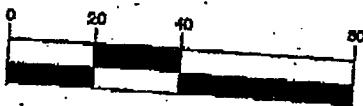
SHT. NO.
 1 OF 2

TMS #421-14-00-025



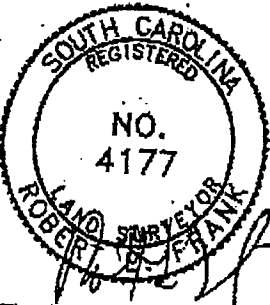
8A

GRAPHIC SCALE



(IN FEET)
1 inch = 40 ft.

WAPPOO CREEK
ATLANTIC INTRACOASTAL WATERWAY



CENTER OF CHANNEL

ADJOINING PROPERTY OWNERS:
1. SONYA TAYLOR AND DAVID ABDO
2. DONALD AND ASHLEY DAVIS

APPLICATION BY: JAMES R. MAULL	LOCATION A DOCK AS BUILT OF 27 BROUGHTON RD., (OCRM-07-33-Y) LOCATED ON WAPPOO CREEK IN THE CITY OF CHARLESTON CHARLESTON COUNTY SOUTH CAROLINA	SHT. NAME MAGNIFIED PLAN VIEW	SHT. NO. 2 OF 2
ADDRESS: 27 BROUGHTON RD.			
DATE: SEPTEMBER 14, 2009			
REVISED:			
TMS #421-14-00-025			

TECHNICAL SUMMARY OF REVIEW

Permit Name: David Abdo

Decision:

Permit:
Permit with Conditions:
Deny:

X

I. Background Information:

Database ID# 58688

Permit Number OCRM-07-128-F (Amendment)

P/N Date: July 22, 2011 Date Received: May 18, 2011

Permit Type: OCRM Critical Area Minor Other Agency Permits USACOE

County: Charleston

Location

Description: 29 Broughton Road, Charleston, Charleston County, South Carolina.

II. Project Description and Stated Purpose:

The above referenced permit has been amended to authorize the work as proposed and shown on the attached plans consisting of constructing a dock. Specifically, the applicant seeks to construct a 4' x 560' walkway with handrails leading to a 15' x 20' covered pierhead with handrails and benches. Floodside of the pierhead, a 3' x 20' ramp will lead to an 8' x 34.5' floating dock. Ebbside a 12' x 14', four-pile boatlift is proposed. The work as described is for the applicant's private, recreational use.

Purpose: The work is for the applicant's private recreational use.

III. Summary of Public and Agency Comments (List by name, date & comment summary; if none, so indicate):

Federal or other State Agencies:

SCDNR: No objection.
SCSPA: No objection.

Local Agencies:

None.

Public Comment (Include all names from Public Hearing):

None.

Adjoining Property Owners (Include all names of those who commented):

Russell & Laura Schaible, 31 Broughton Road, Charleston, S.C. 29407: No comments received



V. Policy Assessment:

A. Regulatory History:

1) Previous OCRM authorizations (Critical Area Permits, land disturbance, Federal cert.):
Amendment to existing permit.

2) Previous Enforcements (Is project in compliance w/all previous permits, etc.):
None.

3) Dock Master Plan and was it required to be recorded:
None.

4) Shellfish lease area number:
None.

5) Marsh ownership claim:
None.

B. Applicable Regulations and Policies (list those that apply only):

1) CZMA:

48-39-150 (Consistent with the 10 General Conditions).

2) Regulations (General Guidelines, Further Guidelines, Specific Project Standards):

R.30-11(B) & (C)

R.30-12-(A) (Consistent as it relates to private recreational use docks).

3) CZ Policies (Management Program Document):

Chapter III, Section VI.C.1), 2), & 3).

C. Does the project contravene any coastal zone regulations?

(If No, skip to section VII; if Yes, complete Section VI.)

YES

NO

VI. Modifications for bringing the project into compliance with regulations:

A. Modifications required to minimize impacts (list avoidance & minimization measures; buffers; size and/or use restrictions; additional treatment measures; deed restrictions; and agency agreements):

B. If Permit is denied, explain contraventions of regulations and/or Coastal Zone Management Program.

VII. Field assessment by: David J. Thompson

(Name)

(Date)

VIII: Reviewed By:

James & Myra Maul, 27 Broughton Road, Charleston, S.C. 29407: Objected to permit and requested the dock be positioned as originally permitted, stated the dock would obstruct his ability to navigate his vessel to tie up on the back side on his floating dock.

IV. Environmental Assessment:

A. Describe the coastal resources (i.e., vegetation, habitat, etc.), which will be impacted:

This area is tidal river and *Spartina alterniflora* marsh.

B. Watershed and vicinity information (include watershed name & size, classification; any impaired waters listed within impaired parameter; and shellfish status):

1. Vicinity information (include information on developments within watershed within 3 mile radius):

Local area is old developed residential S/D.

2. Existing system conditions (i.e. shellfish closures, 303d, and shellfish lease name and #):

Shellfish harvesting Class P, Fecal Coliform.

3. Name and width of waterbody:

Wappoo Creek, 565'.

4. Any small tributary issue, width, change in grade:

None.

5. List total square footage requested and allowed:

744, 744.

6. Any geographic circumstances to consider or boat storage sq. ft considerations:

Yes. 12' x 14' four pile boatlift.

7. Any corridor or extended property line issues; is there a harm allowing a crossing of lines:

Yes. APO, Mr. Maul, objects to placement of dock near his property line. Application request 20.5' from extended line but Mr. Maul insist this does not leave enough room for him to navigate his large boat to the back side of his floating dock. Permit special conditioned to require the structure be 30.5' from the east side extended property line in an attempt to address Mr. Maul's concern.

8. If roof requested, any roofs in the area:

Yes. Other roofs in vicinity.

9. Property width and width of spacing at edge of creek/river:

77', 77'.

C. GAPC Review (List any GAPC's present on or adjacent to project site; include agency comments; attach GIS printout; and outline treatment methods):

None.

1. Project Manager:

D. J. Thompson

(Signature)

10/4/11

(Date)

IX. Notes:

This project is consistent with all rules and regulations for permitting private recreational use docks in the critical areas of South Carolina. The structure must be moved 30.5' off the extended property line to the east of to minimize navigational concerns of the APO.

X. Attachments Required:

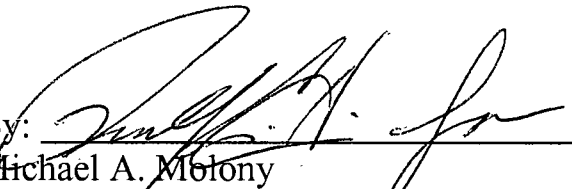
GIS Review (See Section IV.C. above)
Site Photographs

CERTIFICATE OF COUNSEL

The undersigned hereby certifies that, with this *Supplemental Record on Appeal*, the entire *Record on Appeal* contains all material proposed to be included by any of the parties and not any other material. Additionally, the undersigned hereby certifies that this *Supplemental Record on Appeal* complies with the Supreme Court order dated April 15, 2014.

Respectfully submitted,

YOUNG CLEMENT RIVERS, LLP

By: 

Michael A. Molony

25 Calhoun Street, Suite 400

Charleston, SC 29401

P.O. Box 993 (29402)

(843) 724-6631

Attorney for the Appellant, James R. Maull

**THE STATE OF SOUTH CAROLINA
IN THE COURT OF APPEALS**

Appeal from the South Carolina Administrative Law Court

Shirley C. Robinson, Administrative Law Court Judge

Case No. 12-ALJ-07-0050-CC

RECEIVED
MAY 12 2014
SC Court of Appeals

James R. Maull,

Appellant,

v.

South Carolina Department of Health and
Environmental Control and David Abdo,

Respondents,

and Russell and Laura Schaible,

Respondents.

PROOF OF SERVICE

YOUNG CLEMENT RIVERS, LLP
Michael A. Molony
25 Calhoun Street, Suite 400
Charleston, SC 29401
P.O. Box 993 (29402)
(843) 724-6631

Attorney for the Appellant, James R. Maull

I, Russell G. Hines, do hereby certify that I have served the ***SUPPLEMENTAL RECORD ON APPEAL*** on the above-named Respondents by depositing a copy of the same in the United States Mail, postage prepaid, on May 9, 2014 addressed as follows to the Respondents or their counsel of record:

Leslie S. Riley, Esquire
McNair Law Firm, P.A.
100 Calhoun Street
Suite 400
Charleston, SC 29401

Nathan M. Haber, Esquire
South Carolina Department of Health and Environmental Control-OCRM
1362 McMillan Ave. - Suite 400
Charleston, SC 29405

David Abdo
Pro Se
29 Broughton Rd.
Charleston, SC 29407

YOUNG CLEMENT RIVERS, LLP

By: 
Russell G. Hines

Charleston, South Carolina

Dated: May 9, 2014