JOINT PUBLIC NOTICE

CHARLESTON DISTRICT, CORPS OF ENGINEERS 69A Hagood Avenue Charleston, SC 29403-5107 and THE S.C. DEPARTMENT OF HEALTH AND ENVIRONMENTAL CONTROL Office of Ocean and Coastal Resource Management 1362 McMillan Avenue, Suite 400 North Charleston, South Carolina 29405

REGULATORY DIVISION Refer to: SAC-2008-00066 (Modification)

October 13, 2022

Pursuant to Section 10 of the Rivers and Harbors Act of 1899 (33 U.S.C. 403), Sections 401 of the Clean Water Act (33 U.S.C. 1344), Section 14 of the Rivers and Harbors Act of 1899, 33 USC 408 (Section 408) and the South Carolina Coastal Zone Management Act (48-39-10 <u>et.seq.</u>), an application has been submitted to the Department of the Army and the S.C. Department of Health and Environmental Control by

Mr. Ron Gift Safe Harbor Marinas Port Royal LLC c/o Kirby Marshall Applied Technology & Management 941 Houston Northcutt Blvd, Suite 201 Mt. Pleasant, South Carolina 29464 kmarshall@appliedtm.com

for a permit to construct a marina in

Battery Creek

at 601 Paris Avenue at the former SC Ports Authority Property in Port Royal, Beaufort County, South Carolina (Latitude: 32.37439 °, Longitude: -80.69508 °), (Parris Island Quad).

In order to give all interested parties an opportunity to express their views

NOTICE

is hereby given that written statements regarding the proposed work will be received by the **Corps** until

15 Days from the Date of this Notice,

and SCDHEC will receive written statements regarding the proposed work until

30 Days from the Date of this Notice

from those interested in the activity and whose interests may be affected by the proposed work.

Please note that the original Corps and OCRM permits were issued in 2009 with a modification previously issued in 2021. The marina has not been constructed. The project described in this public notice is a proposed modification to the previously permitted marina.

NOTE: This public notice and associated plans are available on the Corps' website at: <u>http://www.sac.usace.army.mil/Missions/Regulatory/PublicNotices</u> .

Applicant's Stated Purpose

According to the applicant, the purpose of the proposed project is to develop a fullservce marina facility to serve recreational boaters in the Port Royal, South Carolina area, including boaters traversing the Atlantic Intracoastal Waterway. The proposed marina would also serve the commercial fishing fleet in Port Royal.

Project Description

The proposed work consists of the construction of a commercial marina.

The proposed project includes impacts associated with the construction of a marina facility. The impacts are located in a portion of Battery Creek referred to as Port Royal Reach, a Federal Civil Works Navigation project.

In detail the work includes the reconfiguration of previously permitted floating docks to result in a total of 151 dedicated wetslips, 3,284 linear feet of side tie dockage, 40 floating Jet Docks, and marine utilities (including shore power, potable water, fuel, and marine pumpout). A floating harbormaster's office will be located on the floating docks adjacent to the outside tie dockage and fuel dispensers. Two new 80' X 5' concrete fixed piers will be added to accommodate a new marine travel lift. Additionally, a commercial shrimp boat dock is included. The details of the proposed activities associated with the Commercial Wetslip Marina, the Drystack Staging Docks, the Over-Water Wharf and Building, and the Shrimp Docks are discussed below.

Commercial Wetslip Marina

The proposed modification to the Commercial Wetslip Marina portion includes the following: The construction of an 8' X 80' gangway from the uplands connecting to an 10' X 867.5' main floating dock to the flood side of the gangway with five (5) sets of floating access piers and boatslips, which includes the floating "Main" dock, "Dock 5", "Dock 6", "Dock 7" and Dock 8", and "Jetdocks". The proposed floating "Main" dock consists of a 239.7' X 15' wide main access dock with a total of six (6) 6' X 60' finger access piers, with three (3) located on each side of the "Main" dock. The "Main" floating dock also includes a 30' X 60' floating platform with a proposed 16' X 40' Master's Office. The proposed floating "Dock 5" and "Dock 6" each consist of a 117' X 8' main access dock with four (4) 5' X 50' finger access piers and two (2) 8' X 50' finger access piers with three (3) of the total piers located on either side of each main access dock. The proposed floating "Dock 7" consists of a 125' X 8' main access dock with four (4) 5' X 40' finger access piers and two (2) 8' X 40' finger access piers with three (3) of the total piers located on either side of the main access dock. The proposed "Dock 8" consists of a 129' X 8 foot main access dock with two (2) 4' X 40' finger piers and one (1) 8' X 40' finger pier to the ebb side of the main access dock and two (2) 5 X 50' finger piers and one (1) 8 X 50' finger pier to the flood side of the dock. The proposed project also includes a 466.7' X 10' jet dock on the landward side of the main floating dock. From the 8' X 80' gangway will be a proposed 597' X 10' main floating dock to the ebb side of the gangway along the wharf. This floating dock also includes a 10' X 10' fixed access pier with a 5' X 60' gangway. The wetslip marina also includes a wave attenuator that connects to the "Main" access pier. The wave attenuator will be 1,826.9' X 15' and will run parallel to the shoreline. On the ebb side of the "Main" access pier attached to the landward side of the wave attenuator will be four (4) sets of floating access piers and boatslips, which includes "Dock 4", "Dock 3", "Dock 2" and "Dock 1". The proposed "Dock 4" consists of a 120.3' X 8' main access dock with four (4) 5' X 50' finger piers and two (2) 8' X 40' finger piers with three (3) of the total piers located on each side of the main access dock. The proposed "Dock 3" consists of a 118.7" X 8' main access dock with four (4) 5' X 50' finger piers and two (2) 8' X 50' finger piers with three (3) of the total piers located on either side of the main access dock. The proposed "Dock 2" consists of a 91.4' X 8' main access dock with two (2) 4' X 40' finger piers and two (2) 8' X 40' finger piers with two (2) of the total piers located on each side of the main access dock. Proposed "Dock 1" consists of a 85' X 8' main access pier with two (2) 4' X 40' finger piers and two (2) 8' X 40' finger piers with two (2) of the total piers located on each side of the main access dock. The width of Battery Creek at the proposed Commercial Wetslip Marina ranges from 850' to 944' from Mean Low Water to Mean Low Water, leaving between 548' to 584' feet of Battery Creek available for general navigation.

Drystack Staging Docks

The proposed modification to the Drystack Staging Docks includes construction of a launch area that includes two (2) 5' X 80' travelift piers, a 12' X 139.8 foot access pier, and a 6' X 88' and 8' X 89.9' L-shape finger pier and a 6' X 80' gangway from the uplands. These structures will be located adjacent to the wharf. The Drystack Staging Docks also

include a 10' X 479.7' floating pier leading to a 290.9' X 15' main floating wave attenuator dock with one (1) 10' X 235' floating access pier, one (1) 10.5' X 235 floating access pier, and a 15' X 250' floating wave attenuator dock. An 8' X 40' fixed pier and a 6' X 80' ADA gangway from the uplands to the floating pier is also proposed. The width of Battery Creek at the location of the Drystack Staging Docks is approximately 922 feet from Mean Low Water to Mean Low Water, leaving approximately 546 feet of Battery Creek available for general navigation.

Over-Water Wharf and Building

The proposed modification to the Over-Water Wharf and Building includes removal of 48,000 square feet of the existing 60,000 square foot building to create an open maneuvering space for the marine forklifts that support the drystack launch/retrieval operations. The existing 102,000 square foot over-water wharf will remain as is. Limited on-wharf staging racks (ground level) will be utilized on the wharf as well to facilitate drystack/retrieval operations. The remaining building area will provide covered short-term storage for vessels and emergency/critical boat service needs.

Shrimp Docks

The previously authorized Shrimp Docks consisting of 414' X 8' and 8' X 128' L-shaped fixed dock with three (3) 8' X 120' finger piers will remain with no modifications.

The existing shrimp docks that are part of the existing permit authorization will remain There are a series of fixed piers that are part of the existing permit authorization for the subject site. These piers remain an essential part of this permit modification request and will provide suitable dockage for commercial fishing interests in the Port Royal area.

Federal Project Description:

The proposed project described in this notice would require permission pursuant to Section 14 of the Rivers and Harbors Act of 1899, 33 USC 408 (Section 408). Permission for an alteration under Section 408 may be granted when, in the judgment of the Secretary of the Army, the alteration will not be injurious to the public interest and will not impair the usefulness of the project. Decisions on proposed alterations are delegated to the District Commander unless one or more criteria requiring elevation are triggered.

Section 408 is based on factors which are outlined in Engineering Circular (EC) 1165-2-220. Review of the requests for modification will be reviewed by a USACE technical review team considering the following factors:

1. Impair the Usefulness of the Project Determination. The review team will determine if the proposed alteration would limit the ability of the federally authorized project to function as authorized, or would compromise or change any authorized project

conditions, purposes or outputs. All appropriate technical analyses including geotechnical, structural, hydraulic and hydrologic, real estate, and operations and maintenance requirements, must be conducted and the technical adequacy of the design must be reviewed. The Charleston District is working closely with the requestor to ensure that all required technical plans, maps, drawings, and specifications necessary for these analyses are provided and complete. In order to approve a request for modification, it must be determined that the usefulness of the authorized project will not be negatively impacted.

2. Injurious to the Public Interest Determination. Proposed alterations will be reviewed to determine the probable impacts, including cumulative impacts, on the public interest. Evaluation of the probable impacts that the proposed alteration to the USACE project may have on the public interest requires a careful weighing of all those factors that are relevant in each particular case. Factors that may be relevant to the public interest depend upon the type of USACE project being altered and may include, but are not limited to, such things as conservation, economic development, historic properties, cultural resources, environmental impacts, water supply, water quality, flood hazards, floodplains, residual risk, induced damages, navigation, shore erosion or accretion, and recreation of whether benefits are commensurate with risks. If the potential detriments are found to outweigh the potential benefits, then it may be determined that the proposed alteration is injurious to the public interest. This determination is not the same as the "contrary to the public interest determination" that is undertaken pursuant to Sections 10/404/103.

3. Legal and Policy Compliance. A determination will be made as to whether the proposal meets all legal and policy requirements. This includes the National Environmental Policy Act (NEPA) and other environmental compliance requirements, as well as USACE policy. While ensuring compliance is the responsibility of USACE, the requester is required to provide all information that the Charleston District identifies as necessary to satisfy all applicable federal laws, executive orders, regulations, policies, and ordinances.

408 Process Overview: The basic 408 process for this application is outlined in EC 1165-2-220, ¶¶ 7.h. (4). In cases in which a Section 408 permission (except for Section 408 decisions that must be made by the Division Commander, per paragraph 8.c.) and a Regulatory standard individual permit are both required for the same proposed alteration/activity, the district will conduct these evaluations in a coordinated and concurrent manner resulting in a single decision document. Note that implementing regulations and policies for the Regulatory permit require the evaluation of proposed activities and their compatibility with the purposes of a federal project. The Section 408 analysis informs the compatibility with the purposes of a federal project for Regulatory purposes. In addition, there will be a single transmittal letter to the requester that includes as attachments both the Section 408 decision letter and the Regulatory permit. The District Commander is the deciding official for the single decision document for these cases, although he or she may further delegate these combined decisions

following the same requirements as in paragraph 8.d.

Avoidance and Minimization

The applicant has stated that the proposed project will avoid and/or minimize impacts to the aquatic environment by the following:

- Siting the wetslips, staging docks, and jet docks in naturally deep water as verified by a licensed hydrographic surveyor. This eliminates the need for dredging.
- Inclusion of a new drystack rack structure on the upland to achieve necessary marina storage capacity. This limits the amount of over-water slip development (and associated impacts) necessary to achieve project objectives.
- Associated with the new drystack rack, a new access path to the existing concrete wharf will be constructed on the upland. This access path will also be utilized by the proposed marine travel lift in vessel launch/retrieval operations.
- The inclusion of this pathway as proposed eliminates the need for wharf modifications/additions that would place additional concrete and piling in waters of the US.
- The project also utilizes limited marina gangway access points to avoid impacts to marsh grass and near shore habitat. These access points include two points emanating from the existing concrete wharf.
- The proposed floating docks will be anchored with traditional pile anchorage in lieu of chain and mass anchor. This will eliminate any possibility of marine mammal entanglement.

Proposed Compensatory Mitigation

No mitigation is being proposed.

South Carolina Department of Health and Environmental Control

The District Engineer has concluded that the discharges associated with this project, both direct and indirect, should be reviewed by the South Carolina Department of Health and Environmental Control in accordance with provisions of Section 401 of the Clean Water Act. As such, this notice constitutes a request, on behalf of the applicant, for certification that this project will comply with applicable effluent limitations and water quality standards. The work shown on this application must also be certified as consistent with applicable provisions of the Coastal Zone Management Program (15 CFR 930). This activity may also require evaluation for compliance with the S. C. Construction in

Navigable Waters Permit Program. State review, permitting and certification is conducted by the S. C. Department of Health and Environmental Control. The District Engineer will not process this application to a conclusion until such certifications are received. The applicant is hereby advised that supplemental information may be required by the State to facilitate the review. This Public Notice will serve as the notification to the Administrator of the Environmental Protection Agency (EPA) pursuant to section 401(a)(2) of the Clean Water Act.

Essential Fish Habitat

This notice initiates the Essential Fish Habitat (EFH) consultation requirements of the Magnuson-Stevens Fishery Conservation and Management Act. Implementation of the proposed project would impact approximately 2 acres of open tidal waters above estuarine substrates and emergent wetlands utilized by various life stages of species comprising the shrimp, and snapper-grouper management complexes. The District Engineer's initial determination is that the proposed action would not have a substantial individual or cumulative adverse impact on EFH or fisheries managed by the South Atlantic Fishery Management Council and the National Marine Fisheries Service (NMFS). The District Engineer's final determination relative to project impacts and the need for mitigation measures is subject to review by and coordination with the NMFS.

Endangered Species

Pursuant to the Section 7 of the Endangered Species Act of 1973 (as amended), the Corps has reviewed the project and based on the location of the project and available information, the following species may be present in the County(s) where the work will occur:

Frosted flatwoods salamander (*Ambystoma cingulatum*), American wood wtork (*Mycteria Americana*), piping plover (Chadrius melodus), red-cockaded woodpecker (*Picoides borealis*), red knot (Calidris canutus rufa), shortnose sturgeon (*Acipenser brevirostrum*), Atlantic sturgeon (*Acipenser oxyrinchus*), Northern long-eared bat (*Myotis septentrionalis*), finback whale (*Balaenoptera physalus*), humpback whale (*Megaptera novaeangliae*), right whale (*Eubalaena glacialis*), West Indian manatee (*Trichechus manatus*), green sea turtle (*Chelonia mydas*), Kemp's Ridley sea turtle (*Lepdochelys kempii*), leatherback sea turtle (*Dermochelys coriacea*), loggerhead sea turtle (*Caretta caretta*), Canby's dropwort (*Oxypolis canbyi*), and pondberry (*Lindera melissifolia*).

Based on all information provided by the applicant and the most recently available information, the District Engineer has determined the following:

The project is not likely to adversely affect West Indian manatee. This public notice serves as a request for written concurrence from the U.S. Fish and Wildlife Service

and/or the National Marine Fisheries Service on this determination. The project will have <u>no effect</u> on on the remaining species listed above and will not result in the destruction or adverse modification of designated or proposed critical habitat.

This public notice serves as a request to the U.S. Fish and Wildlife Service and the National Marine Fisheries Service for any additional information they may have on whether any listed or proposed endangered or threatened species or designated or proposed critical habitat may be present in the area which would be affected by the activity.

Cultural Resources

Pursuant to Section 106 of the National Historic Preservation Act (NHPA), this public notice also constitutes a request to Indian Tribes to notify the District Engineer of any historic properties of religious and cultural significance to them that may be affected by the proposed undertaking.

In accordance with Section 106 of the NHPA, the District Engineer has consulted South Carolina ArchSite (GIS), for the presence or absence of historic properties (as defined in 36 C.F.R. 800.16)(*l*)(1)), and has initially determined that no historic properties are present; therefore, there will be no effect on historic properties. To ensure that other historic properties that the District Engineer is not aware of are not overlooked, this public notice also serves as a request to the State Historic Preservation Office and any other interested parties to provide any information they may have with regard to historic properties. This public notice serves as a request for concurrence within 30 days from the SHPO (and/or Tribal Historic Preservation Officer).

The District Engineer's final eligibility and effect determination will be based upon coordination with the SHPO and/or THPO, as appropriate and required and with full consideration given to the proposed undertaking's potential direct and indirect effects on historic properties within the Corps-identified permit area.

Corps' 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. The benefit which reasonably may be expected to accrue from the project must be balanced against its reasonably foreseeable detriments. All factors which may be relevant to the project 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, flood plain values, land use, navigation, shoreline erosion and accretion, recreation, water supply and conservation, water quality, energy needs, safety, food and fiber production and, in general, the needs and welfare of the people. A permit will be granted unless the District Engineer determines that it would be contrary to the public interest. In cases of conflicting property rights, the Corps cannot undertake to adjudicate rival claims.

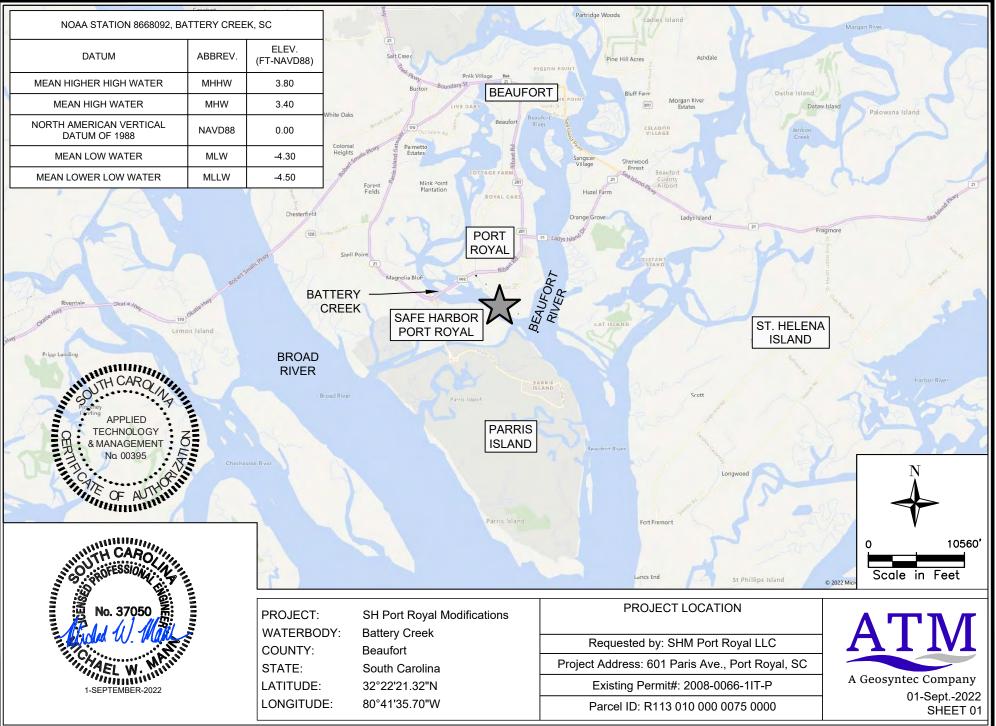
Solicitation of Public Comment

The 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 activity. Any comments received will be considered by the Corps to determine whether to issue, modify, condition or deny a permit for this project. 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 the 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 activity. Any person may request, in writing, within the comment period specified in this notice, that a public hearing be held to consider this application. Requests for a public hearing shall state, with particularity, the reasons for holding a public hearing.

Please submit comments in writing, identifying the project of interest by public notice/file number (SAC-2008-00066), to Tracy.D.Sanders@usace.army.mil <u>or</u> the following address:

U.S. Army Corps of Engineers ATTN: REGULATORY DIVISION 69A Hagood Avenue Charleston, SC 29403-5107

If there are any questions concerning this public notice, please contact Tracy D. Sanders, Project Manager, at (843) 329-8190, toll free at 1-866-329-8187, or by email at Tracy.D.Sanders@usace.army.mil.



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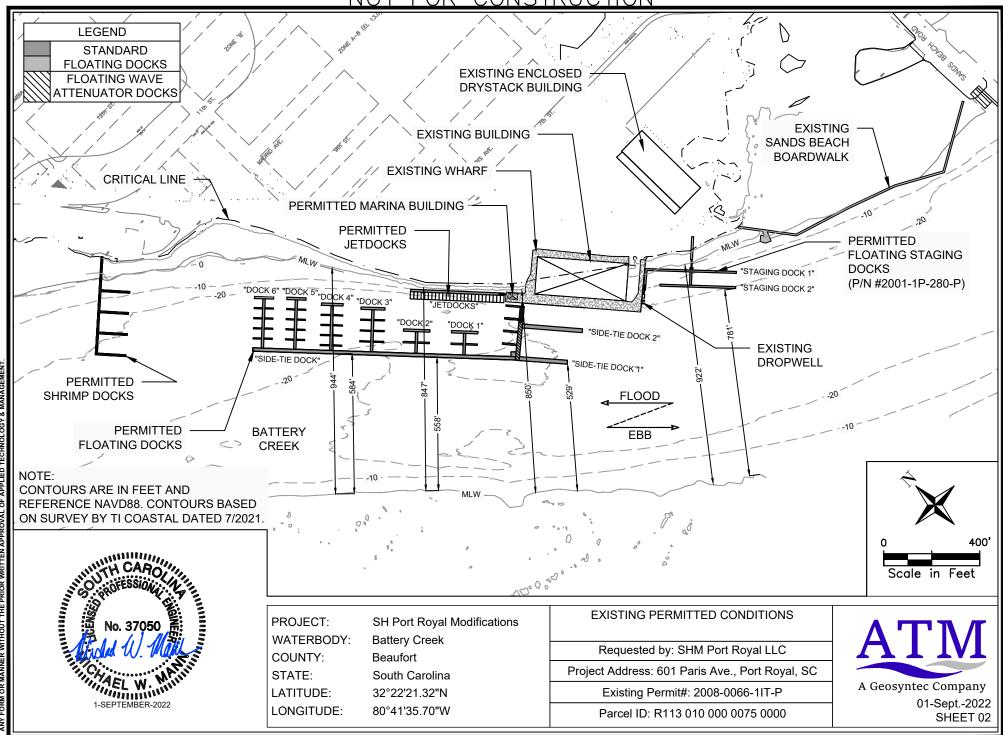
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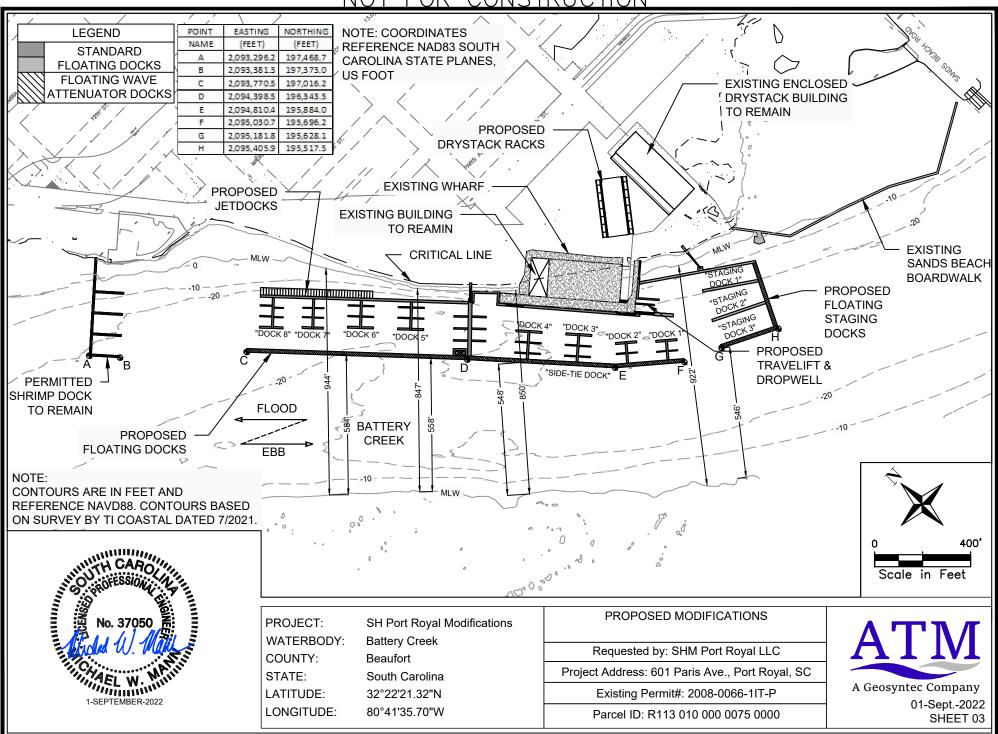
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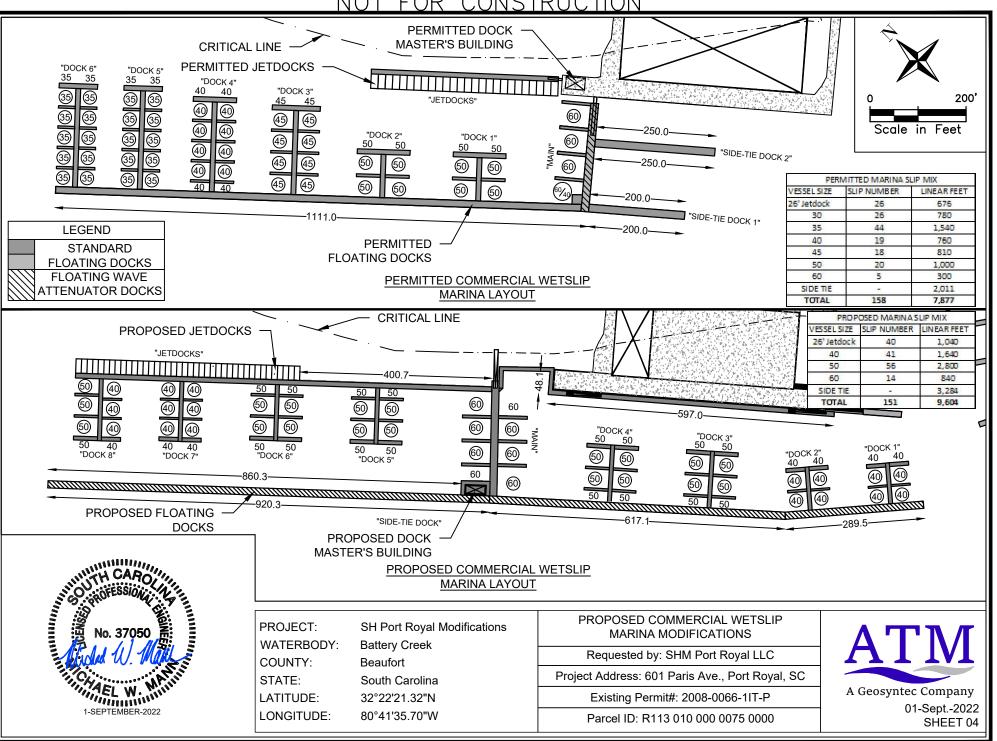
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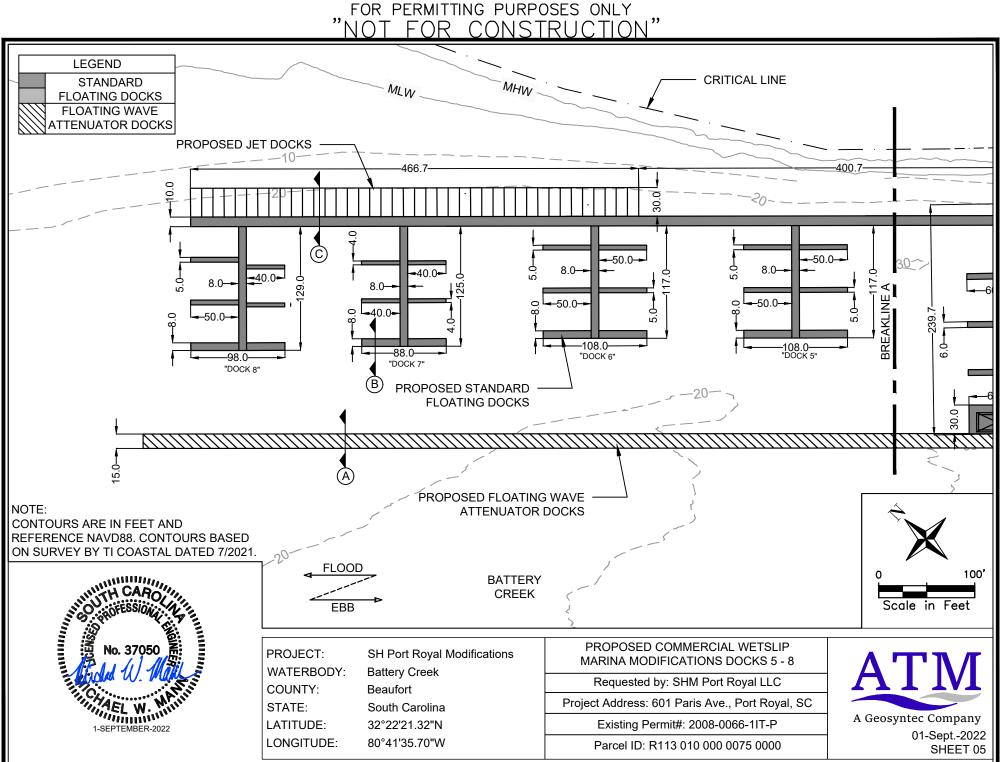




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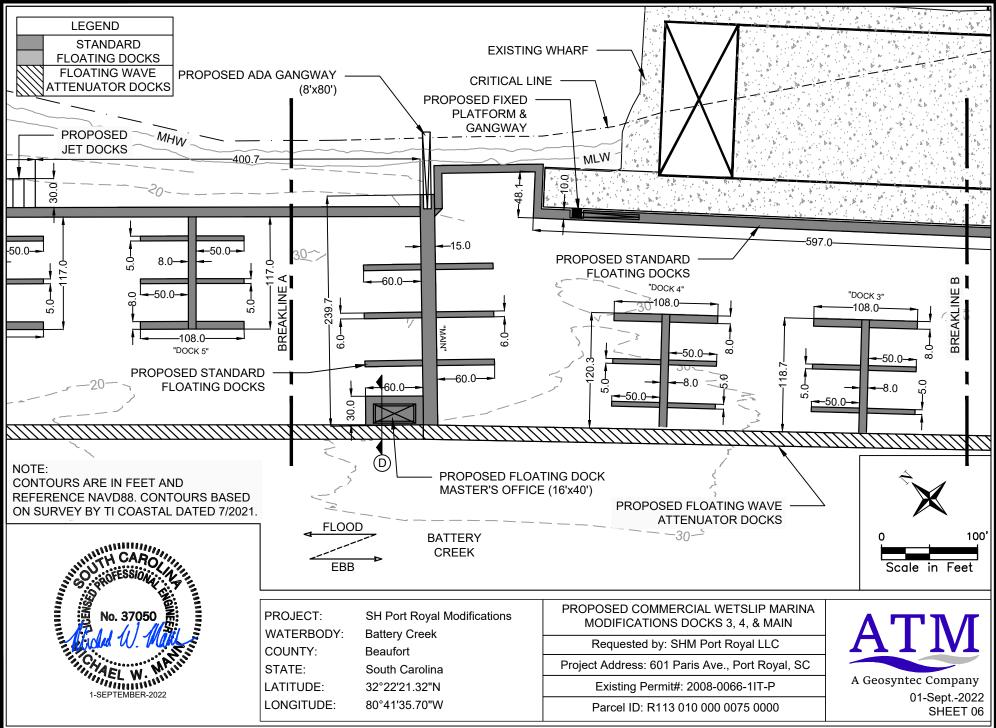
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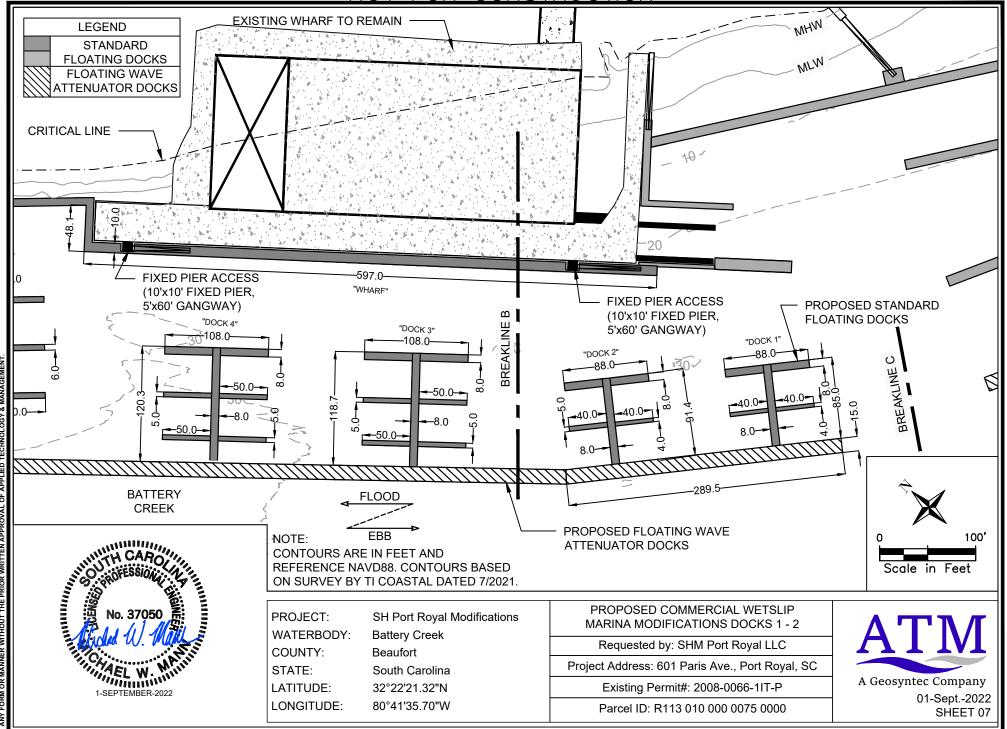
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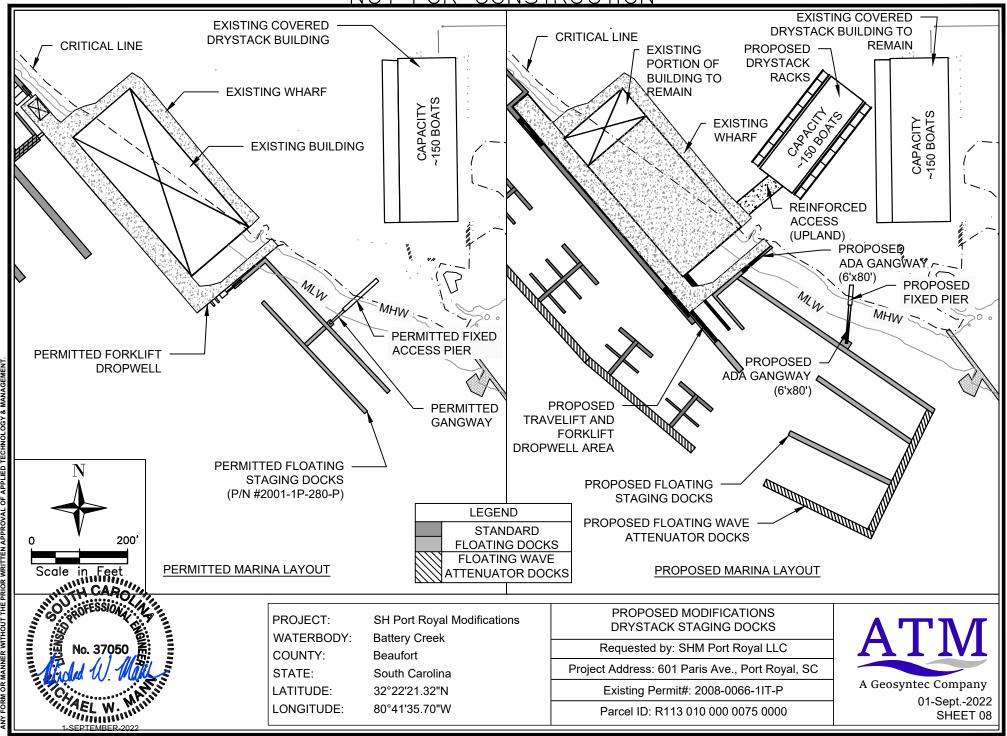
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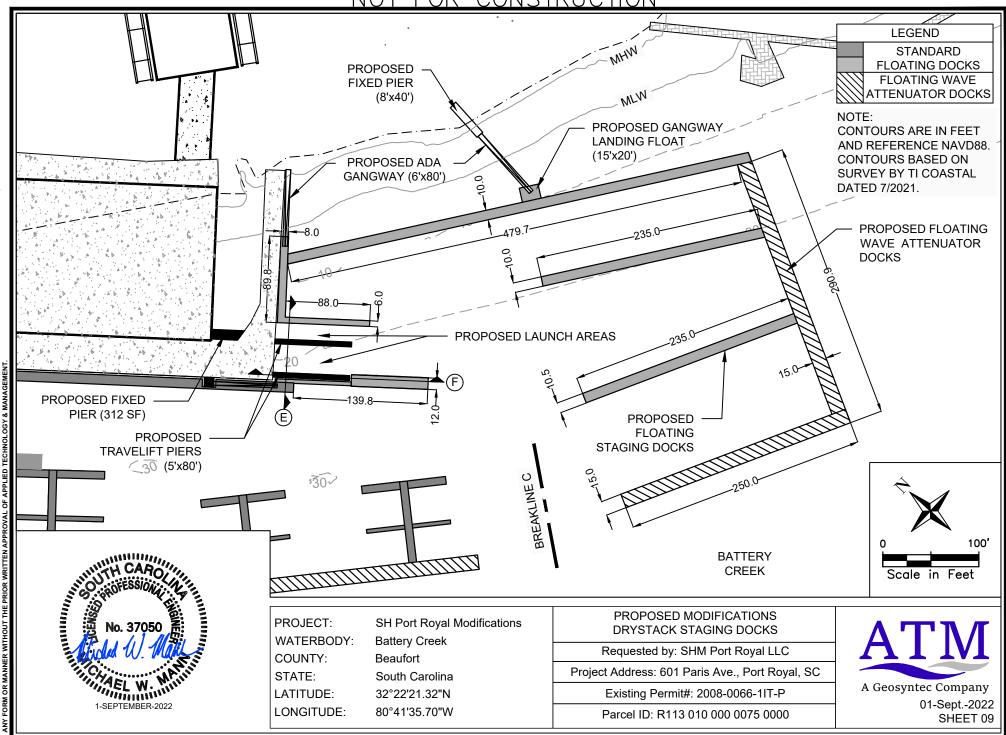
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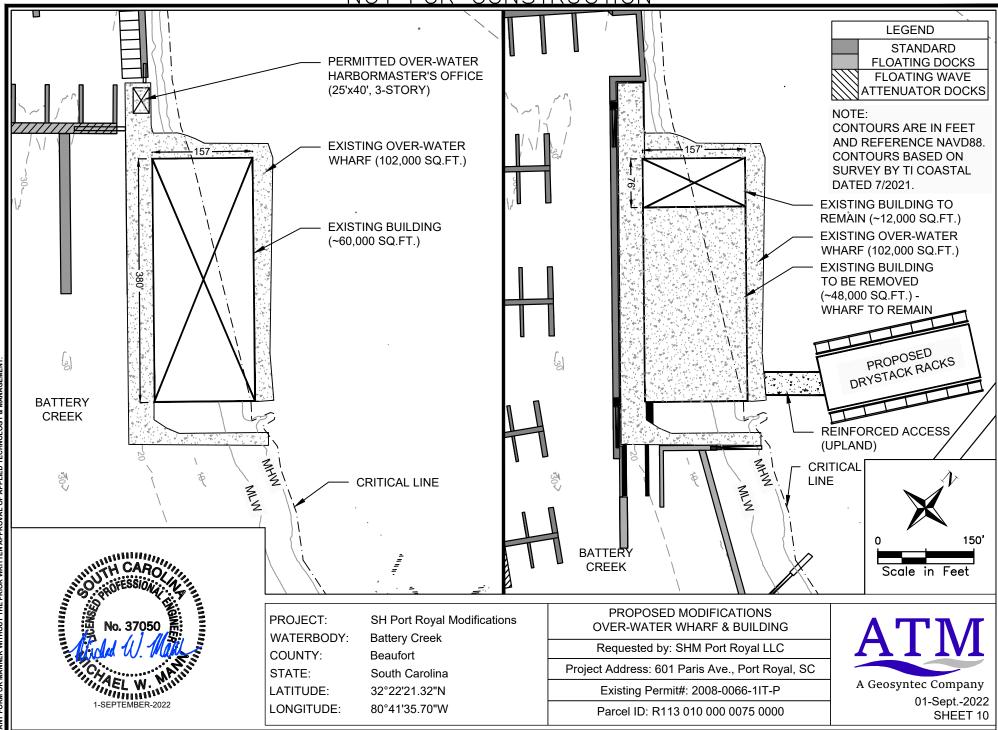
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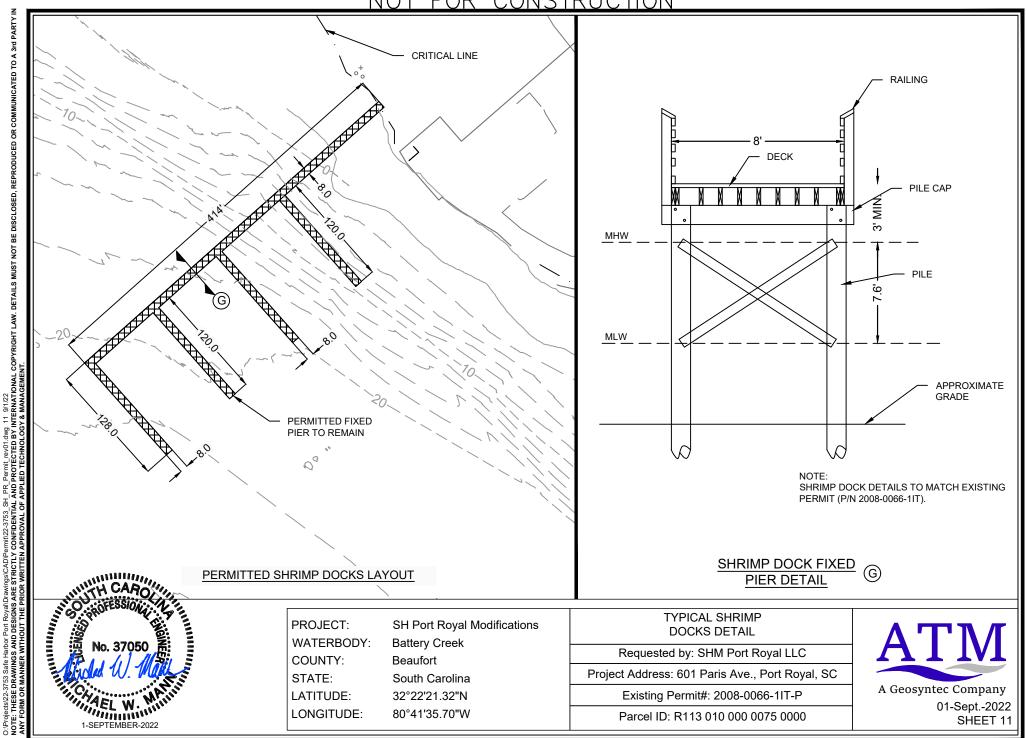


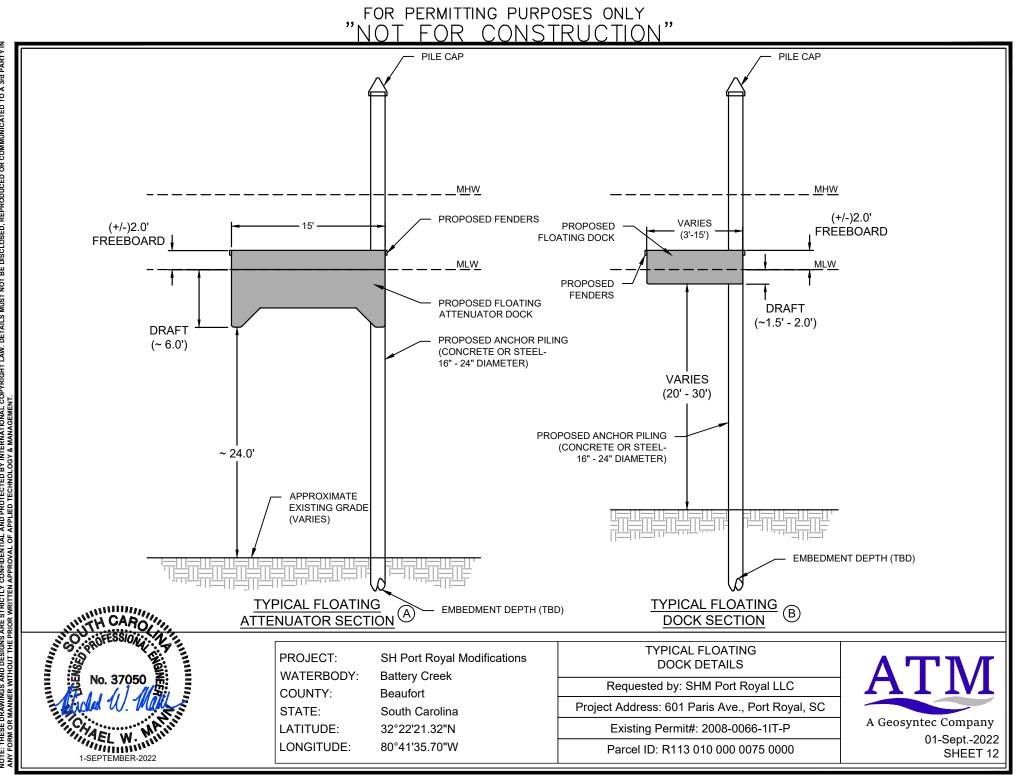


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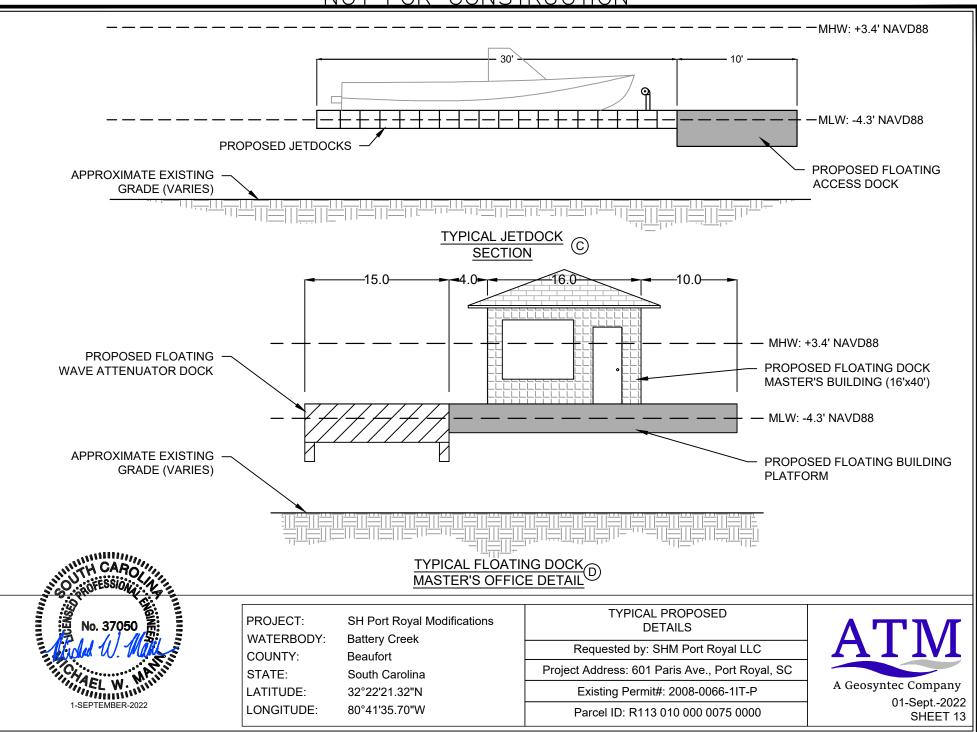
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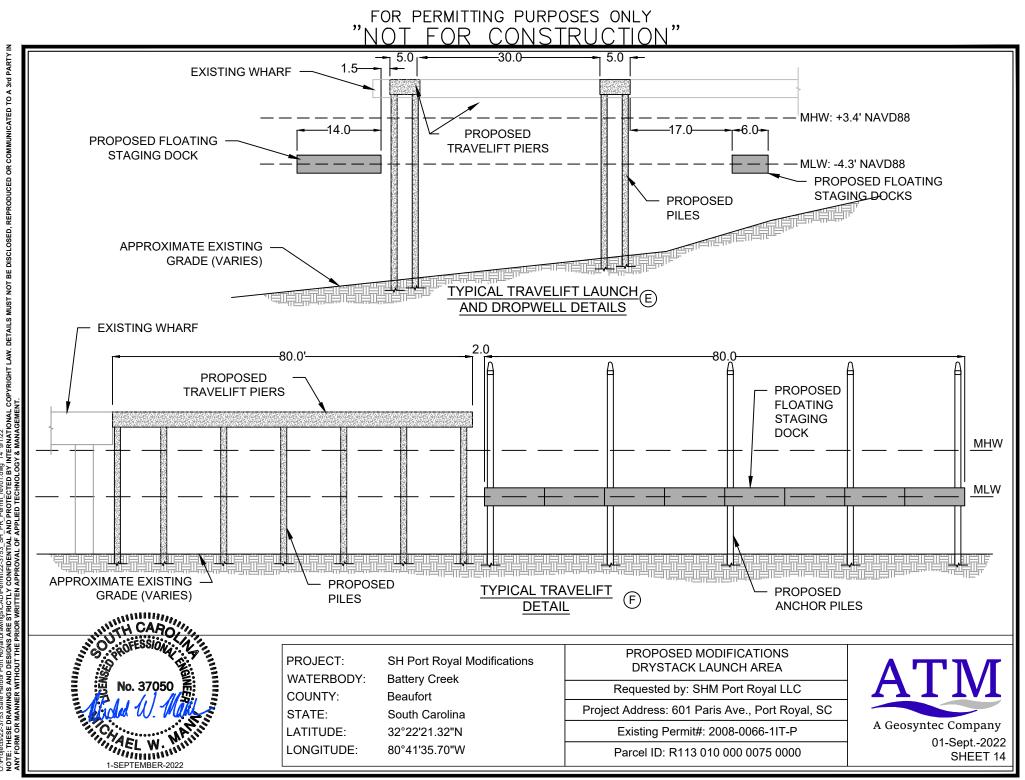




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