



Office of Adjudications

<i>IN THE MATTER OF</i>	:	<i>APPLICATION NO.</i>
		<i>201501172-MG</i>
<i>MAURICE, ANDRE</i>	:	<i>JANUARY 31, 2017</i>

PROPOSED FINAL DECISION

***I
SUMMARY***

The Applicant, Andre Maurice,¹ has applied for a permit from the Department of Energy and Environmental Protection (the Department or DEEP) and its Office of Long Island Sound Programs (OLISP)² to install a fixed pier, ramp, floating dock, and boatlift at his property at 36 Riverbend Drive in Stonington to provide recreational access to the Mystic River and the waters of Long Island Sound. The Mystic Harbor Management Commission for the Town of Stonington (Commission) filed a petition for a hearing after the issuance of a Notice of Tentative Determination to approve the application. General Statutes §22a-361(b). The parties to this proceeding are the Applicant, DEEP staff and intervening parties Kenneth and Jayne Scott. The Commission is an intervenor.

The parties stipulate that the proposed dock meets every relevant provision of the applicable statutes with the exception of two issues. These are: 1) whether the proposed dock will impede public navigation in the littoral area of the Applicant’s property; and 2) whether the dock will conflict with the Scotts’ littoral rights as adjacent landowners. I must assess these questions while considering the Public Trust Doctrine³ and all applicable standards of the Structures, Dredging and Fill statutes, General Statutes §§ 22a-359 through 22a-363, and the goals and policies of the Coastal Management Act, General Statutes §§ 22a-90 through 22a-11.

¹ Andre Maurice is also identified as J. Andre Maurice in various documents.

² Due to a reorganization, OLISP is now part of the Land and Water Resources Division of the Bureau of Water Protection and Land Reuse.

The Public Trust Doctrine has traditionally been used to refer to the body of common law under which the state holds title in waters and submerged lands waterward of the mean high tide line in trust for public use. *Leydon v. Greenwich*, 257 Conn. 318, 332 n. 17 (2001). This Doctrine is meant to protect interests that include navigation, bathing, swimming and fishing. *Orange v. Resnick*, 94 Conn. 573, 578 (1920).

The Applicant claimed that the proposed dock will not impede navigation in the littoral area of his property and will not impact the Scotts' rights. The Harbor Management Commission argued that the dock will impede navigation in this area and presented alternative dock designs that would purportedly alleviate or avoid this impact. The Scotts argued that their use of their dock and the Association's seawall will be adversely impacted by the dock in its present configuration.

The dock as conditioned by the proposed draft permit meets the applicable statutory standards and will not impede navigation in the littoral area of the Applicant's property or unreasonably conflict with the Scotts' rights. I therefore recommend that the Commissioner issue the permit incorporating the terms and conditions of the draft permit (Attachment A)⁴.

II DECISION

A

FINDINGS OF FACT

1

Procedural History

1. Andre Maurice filed his application for a permit to install a fixed pier, ramp and floating dock and boatlift for recreational boating use at his residential property at 36 Riverbend Drive in Stonington on or about February 18, 2015. (Exs. APP-1, 6, 27, DEEP- 13.)
2. A Notice of Tentative Determination (NTD) to approve this application subject to the terms and conditions of a proposed draft permit, which described the configuration of the dock, was published on October 24, 2015. Notice was provided to various officials, with copies of the NTD and draft permit sent to abutting property owners. The Commission filed a petition for hearing on November 19, 2015, requiring the Department to conduct a hearing.⁵ (Exs. DEEP-5 to 9, 11, 13.)
3. The Applicant and DEEP staff are parties in this matter. The Commission was granted status as an intervenor on May 2, 2016. Kenneth and Jayne Scott were granted status as intervening parties on May 13, 2016.⁶ A request for intervening party status filed on May 4, 2016 by twelve households on Riverbend Drive was denied.⁷

⁴ Entered into the record as Ex. DEEP-8.

⁵ The petition for hearing is in the administrative record on file with the Office of Adjudications.

⁶ The various requests to intervene and my associated rulings are in the docket file, which is part of the administrative record on file with the Office of Adjudications.

⁷ The alleged legal interests in the petition involved a determination of private property rights, an issue over which I have no jurisdiction. See *Kleen Energy Systems, LLC v. Commissioner of Energy and Environmental Protection*, 319 Conn. 367 (2015) (administrative agencies are tribunals of limited jurisdiction dependent entirely on valid statutes conferring them with power).

4. A site visit was conducted on May 4, 2016. Stakes and flags indicating the approximate footprint of the dock structure had been placed in the water by Applicant's consultant Gerwick-Mereen, LLC (GM) prior to the visit. Additional stakes were also placed by the surveying company Resource Management and Mapping (RMM) to show the location of a three-foot contour in the area of the proposed dock. (Exs. APP-24A to E, INT- 13, 17, 22, 24, SCT-10 to 13, 16; test. F. Guenther, 7/7/16, track 3.)⁸
5. A hearing to receive public comment was held in Mystic on May 10, 2016. An evidentiary hearing was held on May 16, June 29 and July 7, 2016 at the DEEP in Hartford.⁹ The following witnesses testified for the Applicant: Donald Gerwick as an expert in engineering and surveying, dock design and coastal planning; Robert Conigliaro as an expert in land and bathymetric surveying techniques; Grant Westerson as an expert in coastal navigation; and Andre Maurice as a fact witness. DEEP staff witnesses were Micheal Grzywinski, as an expert in dock design and coastal permitting, and Michael Payton, as an expert in coastal navigation. Keith Neilson, Fred Gunther, David Carreau and Frederick Allard testified for the Commission. Neilson testified as an expert in marine and waterfront civil engineering; Gunther as an expert in land surveying; and Carreau and Allard as fact witness as members of the Commission. Kenneth and Jayne Scott testified as fact witnesses. Keith Neilson also testified as an expert on behalf of the Scotts. (Exs. APP-1 to 4, 25 to 27, DEEP- 12 to 16, INT- 1 to 5, 20, 21.¹⁰)

2

The Site

6. The Applicant's property is a waterfront parcel of about .43 acres that borders on the upper section of the Mystic River (the Property). It is improved with a home and other auxiliary structures. There are no inland or tidal wetlands in the area of the proposed dock. The Property's shoreline is fifty-feet long and is made up of a fine pebble beach. A natural navigable channel runs past the shoreline. (Exs. APP-1, 3, 7, 16, 24, 27, DEEP- 5, 6, INT- 6, 17, 24.)
7. Other structures in the coastal zone near the Property include waterfront homes, docks, revetments, seawalls and other coastal structures. There are no unauthorized structures on the Property and it has not been the subject of a Department enforcement action for unauthorized activities. (Exs. APP-1, 6, 7, 16, DEEP-5, 6, INT- 24.)
8. The property of Kenneth and Jayne Scott at 38 Riverbend Drive borders the Property to the south. The Scott property includes a dock structure, which is a three and one-half by sixteen-foot floating ramp connecting to a four and one-half by twelve foot "T-Head"

⁸ The proceedings in this matter were recorded, but no written transcript has been prepared. The date of the testimony, the speaker and the track where the testimony can be found on the recording are listed. The recording is on file with the Office of Adjudications and is the official record of this proceeding.

⁹ Due to problems with the recording equipment on May 16, witnesses who testified then testified again on June 29.

¹⁰ The exhibits submitted by the intervenor Harbor Management Commission are labeled with the prefix "INT." The exhibits of the intervening parties Kenneth and Jayne Scott are labeled "SCT."

floating dock. The dock is on the northernmost edge of the Scott's 150-foot shoreline. (Exs. APP-12, 16, 24A and B, DEEP-5, SCT-1, 8, 10 - 11, 14, 16.)

9. Property owned by the Whitehall Homeowners Association, Inc. (Association)¹¹ is immediately north of the Property. It has a seawall along its seventy-five-foot riverfront that members of the Association use to access the River. The beach on the Applicant's property is adjacent to the southern face of the seawall and is often used to access the seawall and the water.¹² (Exs. APP-12, 24A to C, 28, 31-32, DEEP-5, INT-8, 13, 17, 22, SCT-1 to 3, 7; test. 7/7/16, K. Scott.)
10. The channel that runs past the shoreline of the Property is described in the Harbor Management Plan as "about 3 ft deep" and "serpentine." The Plan does not mention that channel anywhere else and does not assign it any particular width. The channel is generally three-feet deep and its actual width varies. Although several witnesses referred to the channel as "historic," there is no such designation for the channel anywhere in the Plan; this reference appears to be just a common way the channel is described. (Exs. APP-7, INT-6; test. 7/7/16, D. Carreau, track 8, F. Allard, track 9.)
11. GM survey data and actual conditions at the Property demonstrate that a channel at the site is at least thirty-five feet wide and three-feet deep at mean low water in the littoral area of the Property. Survey data produced for the Commission show the three-foot channel is thirty to thirty-one feet wide. GM's work, their methods, and the accuracy of their results were verified by both the survey technician who performed the survey and a licensed surveyor who approved his results.¹³ DEEP's expert witness also conducted a comprehensive physical inspection of the area that confirmed GM's results. The accuracy of the methods used for the compilation of the data provided to the Commission was not sufficiently verified.¹⁴ (Exs. APP-1, 3, 5, 6, 7, 16, 24A to C, 25, 26, 28, 30, 32, DEEP-2, 5, 6, INT- 6, 7, 13, 21, 22; test. 6/29/16, R. Conigliaro, track 1, D. Gerwick, tracks 1, 2, M. Grzywinski, track 7; test. 7/7/16, M. Payton, track 1, F. Guenther, track 3, D. Carreau, tracks 8, 9, K. Neilson, tracks 3 to 8, F. Allard, track 9.)

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The Application

12. GM prepared the application on behalf of the Applicant. As part of the pre-application process, GM submitted a consultation form to the Mystic Harbor Management

¹¹ Also referred to as the Whitehall Estates Association, Inc. in the record. (See, e.g., Ex. SCT-4.)

¹² There is an apparent dispute regarding the boundary line between the properties owned by the Association and Applicant, and a question was raised as to whether the Department can issue a permit in this case. Nothing in this permit impinges on any legal rights held by others, including real property rights and any private standing to enforce those rights. *In the Matter of Ronald B. Harvey*, Final Decision, September 23, 2014. (Test. K. Neilson, 7/7/16, track 6.)

¹³ Robert Conigliaro, a surveying technician employed by GM, provided a clear explanation of the methods and accuracy of the work he did in the field, which was verified by a Donald Gerwick, a licensed surveyor. (Test. 6/29/16, R. Conigliaro, track 1, D. Gerwick, tracks 1, 2.)

¹⁴ The Commission's expert relied on data provided by another company; he did not perform the work himself and could not provide sufficient details to demonstrate the accuracy of that work. (Test. 7/7/16, F. Guenther, track 3.)

Commission.¹⁵ This submission included the original design of the dock, which featured a thirty-seven foot fixed pier and a twenty-six foot ramp, as well as a floating dock, a boat lift on the northern side of the floating dock, and two tie-off piles off its southern side. (Exs. APP-1, 5, 6, 25; test. 6/29/16, R. Conigliaro, track 1, D. Gerwick, track 1.)

13. At an October 2, 2014 meeting, the Commission expressed opposition to the proposal, claiming it would obstruct navigation and impact the surrounding shore area. The Commission specifically found that the proposed structure protruded into the midpoint of the navigable channel which it estimated to have “a navigable width of 50 feet.” The Commission requested additional information and the investigation of alternative concepts. (Exs. APP-1, 5, 6, 25, INT- 7; test. 6/29/16, R. Conigliaro, track 1, D. Gerwick, track 1; test. 7/7/16, D. Carreau, track 8, F. Allard, track 9.)
14. GM shortened the proposed ramp by ten feet and suggested adjustments to other parts of the dock. The Commission considered the original proposal with the revised ramp at a meeting on November 6, 2014, but voted to object to the dock as it believed the dock would still impede navigation in the channel. The Commission concluded in the consultation form submitted to DEEP that the proposed dock was inconsistent with the Harbor Management Plan. (Exs. APP – 1, 5, 6, DEEP - 5, INT- 6, 8, 9; test. 7/7/16, D. Carreau, track 8, F. Allard, track 9.)
15. The Applicant hired Grant Westerson to conduct an independent review of the area and provide an opinion on potential impacts to navigation. Westerson navigated the River, including the area of the proposed dock, and concluded that the dock, as originally designed, would not impede navigation in the Applicant’s littoral area. GM submitted an application to DEEP in February 2015 that included the original design with a thirty-seven foot pier, but with a revised ramp size of sixteen feet. (Exs. APP-1, 3, 6; test. G. Westerson, 6/29/16, tracks 6-7.)
16. In September 2015, the DEEP issued a Notice of Insufficiency to the Applicant, asking for clarifying information and requesting that the pier be reduced by five feet to address the concerns of the Commission about potential impacts to navigation. This change was made and incorporated in a February 13, 2015 revision of the permit application. (Exs. APP-1, 2, 5, 6, DEEP- 2 to 5, 13; test. M. Grzywinski 6/29/16, track 7.)
17. As a result of these revisions, the current draft permit that is part of the application would authorize the applicant to construct a thirty-two foot long by four-foot wide pier, a sixteen foot by three-foot by hinged ramp, a sixteen by sixteen and one-half foot floating dock with float stops, a boat lift supported by four piles located on the northern side of the floating dock, and two ten inch tie-off piles with ice-breakers located on the southern side of the floating dock. (Exs. APP-1, DEEP-5, 8, 13.)
18. The Applicant considered several alternatives to the design of the dock in its application. All of these designs were rejected: one because it would allow the dock to extend too far

¹⁵ Consultation forms were also submitted to the Stonington Shellfish Commission and the Connecticut Department of Agriculture/ Bureau of Aquaculture. (Ex. APP-6.)

into a navigable channel and another because the dock would not be safe to use. Other options would either limit the usefulness of the dock, would have adverse environmental impacts, or any marginal benefit to public navigation was outweighed by impacts to the Applicant's right to reasonable access to navigable water. A traditional mooring was rejected because the tackle needed for the mooring and the swing radius of the chain had the potential to cause harm through continuous benthic impacts and was not an option unique to the applicant as the holder of riparian rights. OLISP was satisfied with the Applicant's consideration of alternatives and concluded that the proposed dock design ultimately proposed, including the tie-off piles on its southern side, is the preferred alternative. (Exs. APP-1, 6, 23, DEEP-4, 5; test. 6/29/16, D. Gerwick, tracks 1 to 5, M. Grzywinski, tracks 7, 9.)

19. Nine alternative dock designs were prepared on behalf of the Commission. The objective of each was to provide access to the River without encroaching into the channel or causing any adverse impacts to public navigation. Each failed to provide a dock with the same utility for the Applicant. Even alternatives that did not encroach into the channel were not necessarily better for navigation. Some would have more of an impact on coastal resources at the site because they would cause benthic impacts. A few designs provided questionable stability for a vessel tied up to the dock and some presented a problem for public access to the water. The design of Option #4, an alternative favored by the Scotts, would beach a boat at low water and could present launching issues, including the possibility that a vessel would need to back out of the dock area, which could present safety issues. No alternative was a preferable choice to replace the current dock design. (Exs. APP - 23, INT- 14, 23; test. 6/29/16, D. Gerwick, tracks 4, 5, M. Grzywinski, tracks 8, 9; test. 7/7/16, M. Payton, track 2, K. Neilson, tracks 4, 5, 6, K. Scott, track 10.)

20. The planned dock will extend approximately twenty-two feet beyond the face of the seawall to the north. Of this distance, sixteen feet is landward of the three-foot contour at mean low tide, an area not generally navigable due to the shallowness of the water and the presence of the seawall. Eight feet of the float will intrude into the channel, as is depicted on various versions of the site plan. The proposed dock is centered on the shoreline of the Property to reduce conflicts with adjacent littoral owners. The boat lift is on the north side of the dock to locate it away from the Scott's property. (Exs. APP-1, 3, 16, 32, DEEP- 5, 6; test. 6/29/16, M. Grzywinski, track 7; test. 7/7/16, K. Neilson, tracks 4, 5, 6.)

4

Navigation

21. The Commission claims it prefers a six-foot deep, fifty-foot wide navigation channel, but because this is not possible in the upper River, the Commission will accept a channel that is thirty-five feet wide and three-feet deep. This is not a specific requirement in the Plan and was not noted as a requirement in the minutes of the Commission meetings that considered the application. The Commission may have been working on this requirement prior to this application, but it is clear that it was implemented by the Commission after this application was submitted and raised as an objection for this hearing. (Exs. APP-16,

32, INT-1, 6, 7, 8; test. 6/29/16, R. Conigliaro, track 1, M. Grzywinski, track 7; test. 7/7/16, M. Payton, track 1, K. Neilson, tracks 4 to 8, D. Carreau, tracks 8-9, F. Allard, track 9.)

22. The three-foot contour has not been an absolute prohibition to other docks in the area. These docks have parts of their structures that either encroach into the contour to some extent, totally cover the contour, or are so close to the contour that it is reasonable to conclude that their presence and use could impact navigation. The Commission's expert could not recall a dock to which the Commission has objected prior to the Applicant's proposed dock. (Exs. APP-7 to 11, 13 to 15; test. 7/7/16, K. Neilson, tracks 4, 6, 8.)
23. It is usually necessary for operators of vessels to have knowledge of the area. These operators accommodate other boats navigating the channel by waiting for a boat to pass if an area of the channel is narrow. Because the area of the dock is within one hundred feet of the shore, boats transiting the area are generally limited to the "Slow-No-Wake" speed of six miles per hour, a requirement of which all boaters with a safe boating certificate are aware.¹⁶ The dock will also delineate the landward side of the channel, which could be helpful to boaters in the area. (Exs. APP-1, 3, 7, 24A to E, 27 to 30, DEEP- 2, 16; test. 6/29/16, R. Conigliaro, track 1, A. Maurice, track 6, M. Grzywinski, track 7; test. 7/7/16, M. Payton, tracks 1, 2.)
24. The only phase of the tide with the potential for any effect on navigation is approximately thirty minutes on either side of low tide. Even then, the channel waterward of the proposed dock is at least three-feet deep and thirty-five feet wide, and once the tide starts to rise, the navigable area waterward of the dock increases. Most boats need only two to three feet of depth for transit at slow speeds. Even if a vessel were tied to the south side of the floating dock at low tide¹⁷, vessels navigating in the area at that time using the three-foot contour would be able to transit past the dock. As shown in a video demonstration, two boats of the average size and type that are typically in the area at low tide during typical conditions when boats would be in the River were able to pass the area and each other. (Exs. APP-1, 3, 7, 16 to 22, 24A to E, 27 to 30, 32, DEEP- 2, 5, 6, 16; test. 6/29/16, R. Conigliaro, track 1, A. Maurice, track 6, M. Grzywinski, track 7; test. 7/7/16, M. Payton, tracks 1, 2, K. Neilson, tracks 4 to 8, D. Carreau, tracks 8, 9, F. Allard, track 9.)
25. A major obstruction in the channel is a large dock at 23 Whitehall Landing south of the Property. This structure protrudes into almost all of a contour that is slightly less than three feet. The presence of this dock means that some boating traffic may not be able to even reach the Applicant's littoral area at low tide. Other docks, and natural features of the River itself also prevent some vessels from travelling in the area, particularly during low tides.¹⁸ (Exs. APP-1, 7, 15, 27; test. 6/29/16, D. Gerwick, tracks 1 to 5, G. Westerson, tracks 6, 7, A. Maurice, track 6; test. 7/7/16, K. Neilson, track 6.)

¹⁶ Regs, Conn. State Agencies §§15-121-A1 (j); 15- 121-B14.

¹⁷ It is not likely that a vessel would be tied to the dock at that time to avoid having its bow come into contact with the substrate. (Test. M. Payton, 7/7/16, track 2.)

¹⁸ Other impediments to navigation include a bridge over I-95 to the south with a fixed vertical clearance of twenty-five feet above mean high water and an overhead power cable approximately 400 yards north of the bridge with an authorized clearance of twenty-five feet. (Ex. INT-6.)

26. Boats that typically traverse the upper Mystic River are small crafts with minimal drafts, and the usual volume of traffic is sparse, often only one boat is in the channel at any given time. Larger work boats that might travel in the area would still be able to navigate in the River. They would likely transit the area during periods of high tide and, given the size of their vessels, would use the open water towards the middle of the River. (Exs. APP-1, 3, 16, 27 to 30, 32, DEEP-2; test. 6/29/16, A. Maurice, track 6, G. Westerson, tracks 6, 7; test. 7/7/16, M. Payton, track 1, K. Neilson, tracks 4, 5, 6, D. Carreau, tracks 8-9, F. Allard, track 9, K. Scott, track 10.)
27. There was concern that currents, wind direction, operator error or inexperience could cause vessels leaving and returning to the boat lift to obstruct the channel. There was also concern that the width of the channel would make certain maneuvers impossible, particularly given the size of the applicant's boat. The draft permit does not limit the type, size, length or width of the vessel to be used by the Applicant or the size of its draft. Boats are depicted on project plans and applications for illustrative purposes only. The evidence which supports the concerns about the impact of the proposed dock structure on the maneuverability of a boat in a channel is a publication intended for the planning of designs for marinas and small craft harbors. Although the general principles in that evidence are not wholly irrelevant, this publication is not intended to provide guidance for the assessment of a residential dock structure. (Exs. DEEP-8, INT-14, SCT-15; test. 6/29/16, M. Grzywinski, track 7; test. 7/7/16, K. Neilson, tracks 4, 5, 7, 8, K. Scott, track 9.)

5

Property of Kenneth and Jayne Scott

28. The Scotts' dock existed when they purchased their property. They decided to pursue and did receive a certificate of permission (COP)¹⁹ to repair and retain this dock in this location.²⁰ The previous owner of the Property had no objection to the dock and the Applicant does not now object. The Scotts could have applied for an individual permit to place their dock in another location along their shoreline. When they decided to leave their dock in its location, they were fully aware of its close proximity to the Applicant's Property. (Exs. APP- 12, 16, 31, INT- 22, SCT-1, 10 to 14, 16; test. M. Grzywinski, 6/29/16, track 7-8; test. 7/7/16, K. Neilson, tracks 5 to 8, K. Scott, tracks 9, 10, J. Scott, track 10.)
29. The Scotts launch a small sailboat and canoes from their dock and they often swim in the area around their dock. They often cross the Applicant's beachfront to bring a boat to their dock for launching. Even if the proposed dock (in particular a boat on the boat lift) hinders the Scott's sight line when they are leaving their dock, they are responsible for making sure the light-travelled channel is clear before entering the River. The slow speeds of boats in

¹⁹ The COP program authorizes pre-existing structures that have been in place since 1995 that substantially comply with all applicable standards and statutory criteria. (Ex. APP-12; test. M. Grzywinski, 6/29/16, tracks 7-8.)

²⁰ Keith Neilson, the Scott's consultant, recommended that the Scotts obtain a COP rather than an individual permit to move the dock to the south because a COP would be faster and less expensive. Mr. Neilson had also spoken with DEEP staff and believed the proposal met the criteria for a COP and would be granted. (Test. 7/7/16 K. Neilson, track 6, K. Scott, track 9.)

the area and the fact that a boat at the Applicant's dock could effectively act as a buffer to prevent boats from travelling south too close to the Scotts' dock, should help them when they are using their dock or swimming in the area. (Exs. APP-24A, INT-17, SCT -10 to 13, 16, 17; test. 7/7/16, M. Payton, track 1, K. Neilson, track 5, K. Scott, tracks 9, 10.)

30. The presence of the proposed dock will not make it impossible for the Scotts to use their dock, their littoral area, and the seawall on the Association's property. They may be inconvenienced and may have to accommodate the Applicant when he is using his dock or may have to make sure the channel is clear when leaving their dock if the Applicant's boat is in the boat lift or berthed on the side of the dock. The Scotts may have to adjust how they maneuver when leaving their dock. They may have to accommodate a vessel moored on the south side of the dock or transit around the tie-off piles in the Applicant's littoral area. The Scotts may have to use their own littoral area fronting their 150-foot shoreline, which will not be impacted by the proposed dock, to access their dock or to swim. The Scotts may have to accommodate the dock when using the seawall which presents challenges to use that are not due to the presence of the Applicant's dock. (Exs. APP-1, 12, 16, DEEP-5, 6, 8, SCT- 1, 9, 10 to 13, 16; test. 6/29/16, D. Gerwick, track 4, G. Westerson, tracks 6-7, M. Grzywinski, track 7; test. 7/7/16, M. Payton, track 2, K. Neilson, track 5, K. Scott, track 10, J. Scott, track 10.)
31. The Scotts use the Applicant's beach to access the seawall or to access their dock as it is difficult to access their own dock from their property which has a steep bank with steps down to the dock that are difficult to traverse with even a small vessel such as a canoe or kayak. The Scotts have no current right to use the Applicant's beach, either for access to their dock or as members of the Association. (Exs. APP-3, 24A, DEEP-5, INT-13, 17, SCT-8, 11; test. 6/29/16, G. Westerson, tracks 6, 7, M. Grzywinski, track 8; test. 7/7/16, K. Scott, tracks 9, 10, J. Scott, track 10.)

6

The Association's Property

32. The Association's property has approximately seventy-five feet of shoreline defined by a seawall that fronts its littoral area. The proposed dock will not be located in the littoral area of the Association property. Along with other Association members, the Scotts have an undisputed right to access the River from the seawall. The wall has no stairs or any dock structure, which often makes using it a challenge. The presence of the proposed dock, particularly the boatlift, may require more caution by boaters sailing or launching paddle craft from the seawall and may make it necessary to adjust how small crafts are retrieved. (Exs. APP-3, 24A, 32, DEEP-5, 6, 8, INT-13, 17, SCT - 7, 8 to 12; test. 6/29/16, G. Westerson, tracks 6, 7, M. Grzywinski, track 7; test. 7/7/16, K. Neilson, track 5, K. Scott, tracks 9, 10.)
33. The use of the seawall often involves the use of the beach to the south, which is all or partially on the Applicant's property. The members of the Association have no deeded right to use this beach for access to the seawall. (Exs. APP-24A, INT-13, 17, SCT-1 to 8, 11; test. 7/7/16, K. Scott, tracks 9, 10, J. Scott, track 10.)

B
CONCLUSIONS OF LAW
I
No Impacts to Public Navigation

As an owner of the upland, the Applicant has

certain exclusive yet qualified rights and privileges in the waters and submerged land adjoining his upland. He has the exclusive privilege of wharfing out and erecting piers over and upon such soil and of using it for any purpose which does not interfere with navigation, and he may convey these privileges separately from the adjoining land. He also has ...the right of access by water to and from his upland.

Rochester v. Barney, 117 Conn. 462, 468 (1933). See *Walz v. Bennett*, 95 Conn. 537, 542 (1920) (littoral owners have exclusive right of access to the water in the littoral area of their properties); *In the Matter of Daniel McLeod*, Final Decision, June 5, 2014, p. 16 (construction of a structure to gain access to navigable waters from the upland is understood to be an acceptable exercise of one's littoral rights).

The extent of the Applicant's rights, and my decision, are guided by the statutes that govern applications for structures waterward of the state's coastal jurisdiction line. The prevailing statutory scheme focuses on minimizing impacts to navigation, coastal resources, water circulation and sedimentation, public access in the intertidal area, and conflicts with adjacent riparian landowners. General Statutes §22a-92(b) (1) (D). The DEEP seeks to ensure that the design proposed in an application achieves a balance between the Applicant's littoral rights, coastal resources, navigation, and the public trust. *In the Matter of Ronald Harvey*, Final Decision, September 23, 2014.

The Commission would have me determine compliance with the statutory criteria on the basis of the proposed dock's intrusion into a thirty-five by three-foot channel, a criterion it created for this dock and one that is not a requirement of the Harbor Management Plan. Even if this were a legitimate policy of the Commission, that policy neither binds the Department nor is violated here. The three-foot contour that runs past the shoreline of the Property is at least thirty-five feet wide at mean low water in the littoral area where the dock will be located. In addition, my

assessment of impacts to navigation is based on all of the factors that could impact navigation in the Applicant's littoral area due to the presence of the proposed dock, not a specific objection manufactured for this adjudication. My decision is whether the proposed dock complies with the policies articulated in the relevant statutes which have been interpreted to require the "free and unobstructed use of navigable waters for navigation." *Orange v. Resnick*, 94 Conn. 573, 578 (1920). The evidence in the record shows that no obstruction will occur.

Instead, the record shows: first, that low tide is the only time the impact on navigation in the area of the proposed dock is a realistic concern; and second, that the presence of the dock at that phase of the tide will not present a navigation issue that would justify a decision that the dock not be constructed. The relatively few boats passing by the dock during low tide will be able to do so and transit the area, given the size of the channel at that location, the required "Slow-No-Wake" speed, and the need for careful navigation in the area in any case. The typical size and type of boats able to travel that area at low tide would also be able to pass by each other. The presence of the dock will not be an obstacle to navigation; rather, it will be another aspect of navigating the Upper Mystic River. The dock will be part of a River that has many characteristics and features of which boaters need to be aware when transiting the area, particularly at low tide.

The Commission's claims about the impact of the dock on commercial traffic were speculation and hearsay. Not only may I dismiss such conjecture, *Riverbend Associates v. Conservation and Inland Wetlands Commission*, 269 Conn. 57, 71 (2004), but information was placed in the record that shows that these kinds of vehicles usually travel at high tide and navigate toward the center of the River so they would not be impacted by the proposed dock in any event.

Whether a boat approaching and leaving the dock will block the channel is not material to my decision. The need to accommodate this seems to be a typical situation that might be encountered by boaters, rather than a specific problem due to the Applicant's use of his dock. Moreover, limitations on getting to and from a dock, including those based on physical conditions such as wind or currents, do not mandate that a permit be denied. See *In the Matter of Ronald Harvey*, supra, p. 3 (the property's limitations required applicant to accept less than complete access with understanding of need to exercise discretion when using dock).

The Commission offered alternatives to the proposed dock design and argued they would provide the applicant with access to navigable waters without impacting navigation and could present fewer obstacles for the Scotts. These alternatives were rejected, for reasons that included a failure to provide the applicant with as much utility, no real improvement regarding navigation, safety concerns, and increased environmental impacts. The Applicant is not required to accept an alternative dock design. An alternative design does not mean a dock is necessarily more consistent with the applicable statutes or that it presents a better balance of these interests.

The existence of an alternative dock design does not mean the current design should be rejected. The standard guiding my decision is whether the dock's design achieves a balance between the Applicant's littoral rights, coastal resources, navigation and the public trust. *In the Matter of Ronald Harvey*, supra. The current dock design balances these rights with those considerations. The proposed dock structure will provide the Applicant with reasonable access while minimizing its encroachment into public trust waters. The sufficient evidence in the record shows that the proposed dock is the best option to provide the Applicant with reasonable access to navigable waters.

The preponderance of the evidence shows that the proposed dock will not present an obstruction and that the Commission failed to present persuasive evidence to rebut the accuracy or credibility of the Applicant's evidence or to support its contention that the dock will impede boat travel. The application overcomes the purported inconsistency with the Harbor Management Plan that provides for the precedence of navigation over all other uses of the Harbor and prohibits the construction of structures or the anchoring or berthing of a vessel so as to interfere with the free and unobstructed use of channels.

No Impacts to Scott's Littoral Rights

“[W]here a party's upland bordering on navigable waters adjoins and abuts the property of another, each must exercise his respective littoral rights with due regard for the corresponding rights of the other.” (Citations omitted.) *Cammis v. Troy*, 112 Conn. App. 546, 548 (2009). One of the factors recognized in the governing statutory scheme is reducing conflicts with adjacent riparian landowners. General Statutes §22a-92(b) (D). The Department strives to achieve a balance between the right of an applicant to use his property to access navigable waters and the littoral rights of adjacent property owners. *In the Matter of Ronald Harvey*, supra.

Mr. and Mrs. Scott spoke about possible impacts to the use of their dock and the waters around it if the Applicant is allowed to build his dock in its present configuration. They also expressed concern that the dock will impact their ability to access the water from the seawall on the Association's property.

The Applicant has no obligation to build his dock in an alternate configuration if its present design achieves a balance between his littoral rights and the rights of the Scotts as adjacent landowners. The facts that the Scotts shared regarding anticipated problems using their dock, their littoral area around it, and the seawall did not establish that any littoral rights they possess as adjacent property owners that would be unreasonably impacted by the proposed dock. The Scotts might be inconvenienced by the proposed dock, but their use of their dock or their own littoral area to swim or recreate, and their ability to use the Association's seawall will not be so impacted by the presence of the Applicant's dock that the denial of a permit to allow him to construct that dock is justified. The Applicant is not required to abandon his right to build a dock because the exercise of that right might frustrate but not prevent his neighbors from exercising their rights.

The Scotts chose to maintain their dock close to the Applicant's property line. The Applicant's proposed dock is centered on his property to minimize impacts to his neighbors. The length of the Applicant's shoreline is a limitation of the Applicant's property and does not limit his littoral right to construct a dock to provide access from his upland. *In the Matter of Daniel MacLeod*, Final Decision, June 5, 2014. The dock's design also includes two tie-off piles that will

be close to the Scotts dock and littoral area. There is ample evidence in the record of the need for these tie-off piles, particularly when alternatives were assessed that would eliminate these tie-offs.

The Scotts admit that they use the beach that is all or at least partially on the Applicant's property to access their dock and that they use this beach when accessing the water from the Association property. The Applicant's dock might prevent or interfere with these practices. However, the use of the Applicant's beach is not their right that could impact the Applicant's right to construct his dock on his Property. *Cammis v. Troy*, supra, 112 Conn. App. 548.

I do not doubt that the Scotts believe that the proposed dock may impact them as they describe. However, the substance of their presentation at the hearing was speculative and unsubstantiated. My conclusions cannot be based on suspicion, speculation or possible impacts unsubstantiated by fact, documentary evidence or credible expert testimony. *Riverbend Associates v. Conservation and Inland Wetlands Commission*, supra, 269 Conn. 71. See *Estate of Casimir Machowski v. Inland Wetlands Commission*, 137 Conn. App. 830, 836 (2012) (evidence of general impacts, mere speculation or general concerns do not qualify as substantial evidence).

The Scott's decision to leave their dock in a location close to the Applicant's property line may result in inconveniences now that the Applicant is constructing a dock, but his right to do so is not undermined by that decision. Getting to their dock from the Applicant's upland or littoral area or using the Applicant's waters to swim or sail is not part of their package of littoral rights.

Even when considered from a point of view favorable to the Commission and the Scotts, testimony and other evidence presented on their behalf demonstrated that while others may not choose to exercise their littoral rights in the same manner as Mr. Maurice, there was not sufficient evidence of impacts to navigation or unreasonable interference with the Scott's rights to use their dock and the seawall to which they have access as members of the Association. Much of this evidence was also in contrast to the substantiated expert testimony and documents supporting the proposed dock and showing that impacts associated with the proposal either do not exist or have been sufficiently minimized.

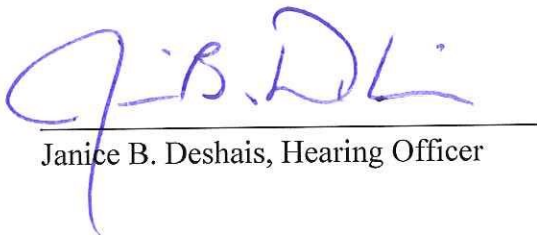
C

CONCLUSION AND RECOMMENDATION

Permitting the Applicant to build a dock represents a balance to be struck between his right to reasonable access to navigable water and the interests related to navigation and the rights of his neighbors. The record supports the factual findings and conclusions based on those findings that the proposed dock will not impede public navigation in the littoral area of the Applicant's property and will not conflict with the right of the Scotts to use their dock on their adjacent property to the south of the Applicant's property and to use the seawall on the adjacent property to the north to access the Mystic River as members of the Association.

The Applicant has met his burden to show through the presentation of evidence that his proposal as conditioned by the proposed draft permit will not result in significant adverse impacts to navigation or present an unreasonable burden on the riparian rights of adjacent landowners. There is sufficient evidence in the record to prove that if the dock is constructed, navigation in the Applicant's littoral area will not be adversely impacted and that the Scotts exercise of their own littoral rights and their rights as members of the Association will not be unreasonably impaired. The record shows that the dock was designed to minimize encroachment into public trust waters and is the best option to provide the Applicant with reasonable access to navigable waters.

I conclude that the proposal is consistent with the Public Trust Doctrine, the relevant standards, goals and policies of the Structures Dredging and Fill statutes (General Statutes §§ 22a-359 through 22a-363) and the applicable portions of the Coastal Management Act (General Statutes §§ 22a-90 through 22a-112). I recommend issuance of the attached proposed draft permit.


Janice B. Deshais, Hearing Officer

ATTACHMENT A



Draft



79 Elm Street • Hartford, CT 06106-5127

www.ct.gov/deep

Affirmative Action/Equal Opportunity Employer

PERMIT

Permit No: 201501172-MG
Municipality: Town of Stonington
Work Area: Mystic River off property located at 36 Riverbend Drive
Permittee: Andre Maurice
P.O. Box 134
Brooklyn, CT 06234

Pursuant to sections 22a-359 through 22a-363g of the Connecticut General Statutes ("CGS") and in accordance with CGS section 22a-98 and the Connecticut Water Quality Standards, effective February 25, 2011, a permit is hereby granted by the Commissioner of Energy and Environmental Protection ("Commissioner") to construct a fixed pier, ramp, floating dock and boat lift for private recreational boating use as is more specifically described below in the SCOPE OF AUTHORIZATION, off property identified as the "work area" above.

*******NOTICE TO PERMITTEES AND CONTRACTORS*******

UPON INITIATION OF ANY WORK AUTHORIZED HEREIN, THE PERMITTEE ACCEPTS AND AGREES TO COMPLY WITH ALL TERMS AND CONDITIONS OF THIS PERMIT. FAILURE TO CONFORM TO THE TERMS AND CONDITIONS OF THIS PERMIT MAY SUBJECT THE PERMITTEE AND ANY CONTRACTOR TO ENFORCEMENT ACTIONS, INCLUDING INJUNCTIONS AS PROVIDED BY LAW AND PENALTIES UP TO \$1,000.00 PER DAY PURSUANT TO THE ADMINISTRATIVE CIVIL PENALTY POLICY DESCRIBED IN SECTIONS 22a-6b-1 THROUGH 22a-6b-15 OF THE REGULATIONS OF CONNECTICUT STATE AGENCIES.

SCOPE OF AUTHORIZATION

The Permittee is hereby authorized to conduct the following work as described in application #201501172-MG, including four (4) sheets of plans dated February 6, 2015, Sheets 1 and 2 of 4 revised September 18, 2015, submitted by the Permittee to the Commissioner and attached hereto, as follows:

construct a 4' wide by 32' long fixed pile and timber pier, of which 19' is located waterward of the coastal jurisdiction line with a landward top of deck elevation of +6.90' NAVD88 with utilities, a ships ladder located on the southern side of the pier, an electric aerator, a 3' wide by 16' long hinged ramp to a 6' wide by 16½' long floating dock with float stops, secured with two (2) timber piles with ice-breakers, a pile-mounted boat lift located on the northern side of the floating dock and two tie-off piles with ice-breakers located on the southern side of the floating dock as shown on the plans attached hereto.

SPECIAL TERMS AND CONDITIONS

1. The Permittee shall file Appendix B on the land records of the municipality in which the subject property is located not later than thirty (30) days after permit issuance pursuant to CGS Section 22a-363g. A copy of Appendix B with a stamp or other such proof of filing with the municipality shall be submitted to the Commissioner no later than sixty (60) days after permit issuance.
2. Not later than two (2) weeks prior to the commencement of any work authorized herein, the Permittee shall submit to the Commissioner, on the form attached hereto as Appendix A, the name(s) and address(es) of all contractor(s) employed to conduct such work and the expected date for commencement and completion of such work, if any.
3. The Permittee shall give a copy of this permit to the contractor(s) who will be carrying out the activities authorized herein prior to the start of construction and shall receive a written receipt for such copy, signed and dated by such contractor(s). The Permittee's contractor(s) shall conduct all operations at the site in full compliance with this permit and, to the extent provided by law, may be held liable for any violation of the terms and conditions of this permit. At the work area the contractor(s) shall, whenever work is being performed, make available for inspection a copy of this permit and the final plans for the work authorized herein.
4. The Permittee shall post the attached Permit Notice in a conspicuous place at the work area while the work authorized herein is undertaken.
5. The Permittee shall install and maintain the float stops authorized herein in optimal condition for the life of the structure.
6. The Permittee shall construct the timber pier authorized herein with a top of deck elevation of +6.90' NAVD88 and shall provide a minimum of 5' of vertical clearance between the lowest structural support member of the pier and the substrate at the mean high water line.
7. Except as specifically authorized by this permit, no equipment or material, including but not limited to, fill, construction materials, excavated material or debris, shall be deposited, placed or stored in any wetland or watercourse on or off-site, or within any delineated setback area, nor shall any wetland, watercourse or delineated setback area be used as a staging area or access way other than as provided herein.

8. All waste material generated by the performance of the work authorized herein shall be disposed of by the Permittee at an upland site approved for the disposal of such waste material, as applicable.
9. On or before ninety (90) days after completion of the work authorized herein, the Permittee shall submit to the Commissioner "as-built" plans of the work area showing all tidal datums and structures, including any proposed elevation views and cross sections included in the permit. Such plans shall be the original ones and be signed and sealed by an engineer, surveyor or architect, as applicable, who is licensed in the State of Connecticut.

GENERAL TERMS AND CONDITIONS

1. All work authorized by this permit shall be completed within five (5) years from date of issuance of this permit ("work completion date") in accordance with all conditions of this permit and any other applicable law.
 - a. The Permittee may request a one-year extension of the work completion date. Such request shall be in writing and shall be submitted to the Commissioner at least thirty (30) days prior to said work completion date. Such request shall describe the work done to date, what work still needs to be completed, and the reason for such extension. It shall be the Commissioner's sole discretion to grant or deny such request.
 - b. Any work authorized herein conducted after said work completion date or any authorized one year extension thereof is a violation of this permit and may subject the Permittee to enforcement action, including penalties, as provided by law.
2. In conducting the work authorized herein, the Permittee shall not deviate from the attached plans, as may be modified by this permit. The Permittee shall not make de minimis changes from said plans without prior written approval of the Commissioner.
3. The Permittee may not conduct work waterward of the high tide line or in tidal wetlands at this permit site other than the work authorized herein, unless otherwise authorized by the Commissioner pursuant to CGS section 22a-359 et. seq. and/or CGS section 22a-32 et. seq.
4. The Permittee shall maintain all structures or other work authorized herein in good condition. Any such maintenance shall be conducted in accordance with applicable law including, but not limited to, CGS sections 22a-28 through 22a-35 and CGS sections 22a-359 through 22a-363g.
5. In undertaking the work authorized hereunder, the Permittee shall not cause or allow pollution of wetlands or watercourses, including pollution resulting from sedimentation and erosion. For purposes of this permit, "pollution" means "pollution" as that term is defined by CGS section 22a-423.
6. Upon completion of any work authorized herein, the Permittee shall restore all areas impacted by construction, or used as a staging area or access way in connection with such work, to their condition prior to the commencement of such work.

7. The work specified in the SCOPE OF AUTHORIZATION is authorized solely for the purpose set out in this permit. No change in the purpose or use of the authorized work or facilities as set forth in this permit may occur without the prior written authorization of the Commissioner. The Permittee shall, prior to undertaking or allowing any change in use or purpose from that which is authorized by this permit, request authorization from the Commissioner for such change. Said request shall be in writing and shall describe the proposed change and the reason for the change.
8. The Permittee shall allow any representative of the Commissioner to inspect the work authorized herein at reasonable times to ensure that it is being or has been accomplished in accordance with the terms and conditions of this permit.
9. This permit is not transferable without prior written authorization of the Commissioner. A request to transfer a permit shall be submitted in writing and shall describe the proposed transfer and the reason for such transfer. The Permittee's obligations under this permit shall not be affected by the passage of title to the work area to any other person or municipality until such time as a transfer is authorized by the Commissioner.
10. Any document required to be submitted to the Commissioner under this permit or any contact required to be made with the Commissioner shall, unless otherwise specified in writing by the Commissioner, be directed to:

Permit Section
Office of Long Island Sound Programs
Department of Energy and Environmental Protection
79 Elm Street
Hartford, Connecticut 06106-5127
(860) 424-3034
Fax # (860) 424-4054
11. The date of submission to the Commissioner of any document required by this permit shall be the date such document is received by the Commissioner. The date of any notice by the Commissioner under this permit, including but not limited to notice of approval or disapproval of any document or other action, shall be the date such notice is personally delivered or the date three (3) days after it is mailed by the Commissioner, whichever is earlier. Except as otherwise specified in this permit, the word "day" as used in this permit means calendar day. Any document or action which is required by this permit to be submitted or performed by a date which falls on a Saturday, Sunday or a Connecticut or federal holiday shall be submitted or performed on or before the next day which is not a Saturday, Sunday, or a Connecticut or federal holiday.
12. Any document, including but not limited to any notice, which is required to be submitted to the Commissioner under this permit shall be signed by the Permittee and by the individual or individuals responsible for actually preparing such document, each of whom shall certify in writing as follows: "I have personally examined and am familiar with the information submitted in this document and all attachments and certify that based on reasonable investigation, including my inquiry of those individuals responsible for obtaining the

information, the submitted information is true, accurate and complete to the best of my knowledge and belief, and I understand that any false statement made in this document or its attachments may be punishable as a criminal offense.”

13. In evaluating the application for this permit the Commissioner has relied on information and data provided by the Permittee and on the Permittee's representations concerning site conditions, design specifications and the proposed work authorized herein, including but not limited to representations concerning the commercial, public or private nature of the work or structures authorized herein, the water-dependency of said work or structures, its availability for access by the general public, and the ownership of regulated structures or filled areas. If such information proves to be false, deceptive, incomplete or inaccurate, this permit may be modified, suspended or revoked, and any unauthorized activities may be subject to enforcement action.
14. In granting this permit, the Commissioner has relied on representations of the Permittee, including information and data provided in support of the Permittee's application. Neither the Permittee's representations nor the issuance of this permit shall constitute an assurance by the Commissioner as to the structural integrity, the engineering feasibility or the efficacy of such design.
15. In the event that the Permittee becomes aware that he did not or may not comply, or did not or may not comply on time, with any provision of this permit or of any document required hereunder, the Permittee shall immediately notify the Commissioner and shall take all reasonable steps to ensure that any noncompliance or delay is avoided or, if unavoidable, is minimized to the greatest extent possible. In so notifying the Commissioner, the Permittee shall state in writing the reasons for the noncompliance or delay and propose, for the review and written approval of the Commissioner, dates by which compliance will be achieved, and the Permittee shall comply with any dates which may be approved in writing by the Commissioner. Notification by the Permittee shall not excuse noncompliance or delay and the Commissioner's approval of any compliance dates proposed shall not excuse noncompliance or delay unless specifically stated by the Commissioner in writing.
16. This permit may be revoked, suspended, or modified in accordance with applicable law.
17. The issuance of this permit does not relieve the Permittee of his obligations to obtain any other approvals required by applicable federal, state and local law.
18. This permit is subject to and does not derogate any present or future property rights or powers of the State of Connecticut, and conveys no property rights in real estate or material nor any exclusive privileges, and is further subject to any and all public and private rights and to any federal, state or local laws or regulations pertinent to the property or activity affected hereby.

Issued on _____, 2015

STATE OF CONNECTICUT
DEPARTMENT OF ENERGY AND ENVIRONMENTAL PROTECTION

Betsey C. Wingfield
Bureau Chief
Bureau of Water Protection and Land Reuse

Permit #201501172-MG, Stonington
Andre Maurice

OFFICE OF LONG ISLAND SOUND PROGRAMS

APPENDIX A

TO: Permit Section
Department of Energy and Environmental Protection
Office of Long Island Sound Programs
79 Elm Street
Hartford, CT 06106-5127

PERMITTEE: Andre Maurice
P.O. Box 134
Brooklyn, CT 06234

Permit No: 201501172-MG, Stonington

CONTRACTOR 1: _____

Address: _____

Telephone #: _____

CONTRACTOR 2: _____

Address: _____

Telephone #: _____

CONTRACTOR 3: _____

Address: _____

Telephone #: _____

EXPECTED DATE OF COMMENCEMENT OF WORK: _____

EXPECTED DATE OF COMPLETION OF WORK: _____

PERMITTEE: _____
(signature) (date)



OFFICE OF LONG ISLAND SOUND PROGRAMS

APPENDIX B

NOTICE OF PERMIT ISSUANCE
DEPARTMENT OF ENERGY AND ENVIRONMENTAL PROTECTION

To: Stonington Town Clerk

Signature and
Date:

Subject: 36 Riverbend Drive, Stonington
Coastal Permit #201501172-MG

Pursuant to Section 22a-363g and Section 22a-361 of the Connecticut General Statutes, the Commissioner of Energy and Environmental Protection gives notice that a permit has been issued to Andre Maurice, P.O. Box 134, Brooklyn, CT 06234 to:

1. construct a 4' wide by 32' long fixed pile and timber pier, of which 19' is located waterward of the coastal jurisdiction line with a landward top of deck elevation of +6.90' NAVD88 with utilities, a ships ladder located on the southern side of the pier, an electric aerator, a 3' wide by 16' long hinged ramp to a 6' wide by 16½' long floating dock with float stops, secured with two (2) timber piles with ice-breakers, a pile-mounted boat lift located on the northern side of the floating dock and two tie-off piles with ice-breakers located on the southern side of the floating dock.

If you have any questions pertaining to this matter, please contact the Office of Long Island Sound Programs at 860-424-3034.



PERMIT NOTICE

This Certifies that Authorization to perform work below the Coastal Jurisdiction Line and/or within Tidal Wetlands of coastal, tidal, or navigable waters of Connecticut

Has been issued to: **Andre Maurice**

At this location: **36 Riverbend Drive, Stonington**

To conduct the following: **construct a fixed pier, ramp, floating dock and boat lift.**

Permit #: **201501172-MG**

Issued on: **Month XX, 2015**

This Authorization expires on: **Month XX, 2020**

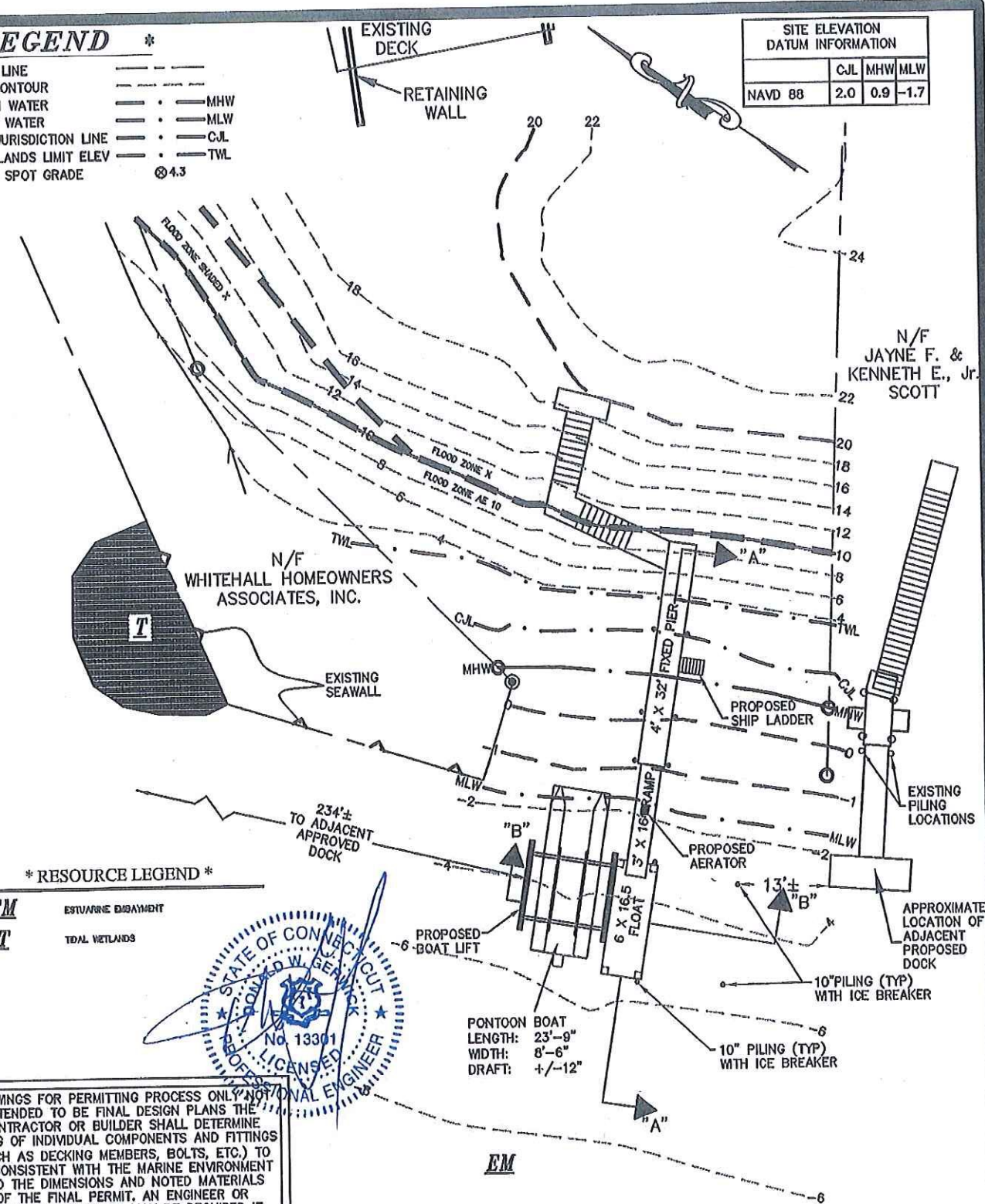
This Notice must be posted in a conspicuous place on the job during the entire project.

Department of Energy and Environmental Protection
Office of Long Island Sound Programs
79 Elm Street • Hartford, CT 06106-5127
Phone: (860) 424-3034 Fax: (860) 424-4054
www.ct.gov/deep

*** LEGEND ***

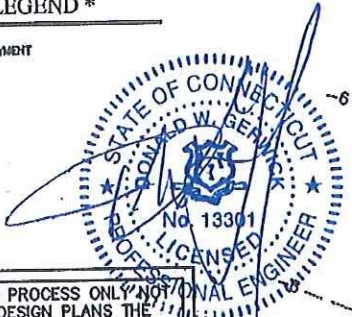
- PROPERTY LINE -----
- EXISTING CONTOUR -----
- MEAN HIGH WATER ----- MHW
- MEAN LOW WATER ----- MLW
- COASTAL JURISDICTION LINE ----- C.J.L.
- TIDAL WETLANDS LIMIT ELEV ----- TWL
- PROPOSED SPOT GRADE (4.3)

SITE ELEVATION DATUM INFORMATION			
	CJL	MHW	MLW
NAVD 88	2.0	0.9	-1.7



*** RESOURCE LEGEND ***

- EM** ESTUARINE DISBURMENT
- T** TIDAL WETLANDS



DRAWINGS FOR PERMITTING PROCESS ONLY NOT INTENDED TO BE FINAL DESIGN PLANS THE CONTRACTOR OR BUILDER SHALL DETERMINE SIZING OF INDIVIDUAL COMPONENTS AND FITTINGS (SUCH AS DECKING MEMBERS, BOLTS, ETC.) TO BE CONSISTENT WITH THE MARINE ENVIRONMENT AND THE DIMENSIONS AND NOTED MATERIALS OF THE FINAL PERMIT. AN ENGINEER OR STRUCTURAL ENGINEER MAY BE REQUIRED IF MANDATED BY THE LOCAL BUILDING DEPARTMENT.

ELEVATIONS BASED ON NAVD 88 REV: 9-18-2015

FEBRUARY 6, 2015 ATTACHMENT "I" SHEET 1 OF 4

COASTAL PERMIT APPLICATION:
APPLICATION FOR DOCK PERMIT
APPLICANT: ANDRE MAURICE
36 RIVERBEND DRIVE
STONINGTON, CONNECTICUT

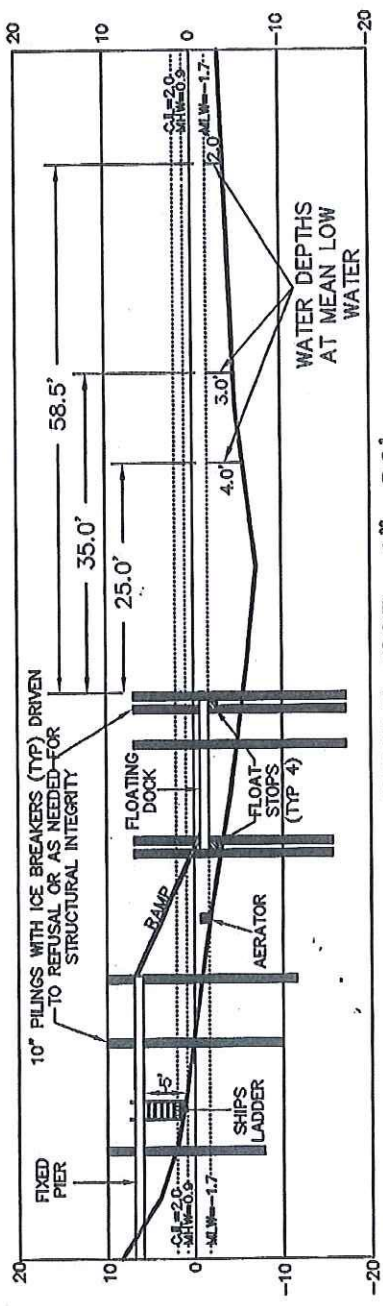
PLAN VIEW
PROPOSED
DOCK PLAN "A"
SCALE: 1"=20'



GERWICK - MERREN L.L.C.
P.O. BOX 539 17 INDUSTRIAL DRIVE
WATERFORD, CONNECTICUT 06385
TEL (860)442-2201 FAX (860)442-2203

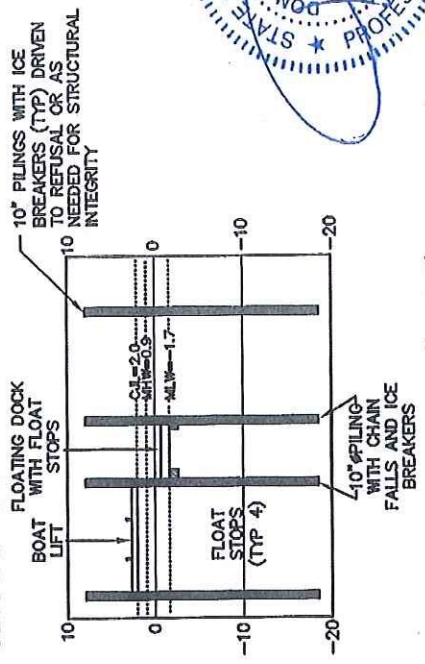
SITE ELEVATION DATUM INFORMATION		
C.L.	M.F.W.	M.L.W.
NAVD 88	2.0	0.9 -1.7

CROSS SECTION "A-A"



SCALE HOR: 1"=20'
VERT: 1"=20'

CROSS SECTION "B-B"



SCALE HOR: 1"=20'
VERT: 1"=20'

ELEVATIONS BASED ON NAVD 88

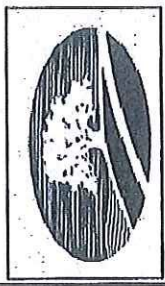
ATTACHMENT "1"

FEBRUARY 6, 2015

COASTAL PERMIT APPLICATION:
APPLICATION FOR DOCK PERMIT
APPLICANT: ANDRE MAURICE
36 RIVERBEND DRIVE
STONINGTON, CONNECTICUT

ELEVATION VIEW
SCALE: AS NOTED

PLAN "A"



GERWICK - MERREEN L.L.C.
P.O. BOX 539 17 INDUSTRIAL DRIVE
WATERFORD, CONNECTICUT 06385
TEL (860)442-2201 FAX. (860)442-2205

DRAWINGS FOR PERMITTING PROCESS ONLY NOT INTENDED TO BE FINAL DESIGN PLANS THE CONTRACTOR OR BUILDER SHALL DETERMINE SIZING OF INDIVIDUAL COMPONENTS AND FITTINGS (SUCH AS DECKING MEMBERS, BOLTS, ETC.) TO BE CONSISTENT WITH THE MARINE ENVIRONMENT AND THE DIMENSIONS AND NOTED MATERIALS OF THE FINAL PERMIT. AN ENGINEER OR STRUCTURAL ENGINEER MAY BE REQUIRED IF MANDATED BY THE LOCAL BUILDING DEPARTMENT.

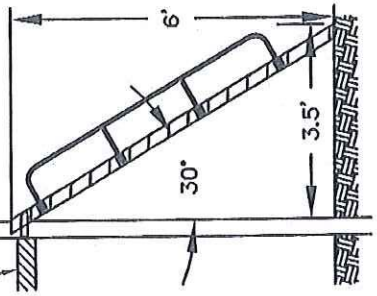


REV: 9-18-2015

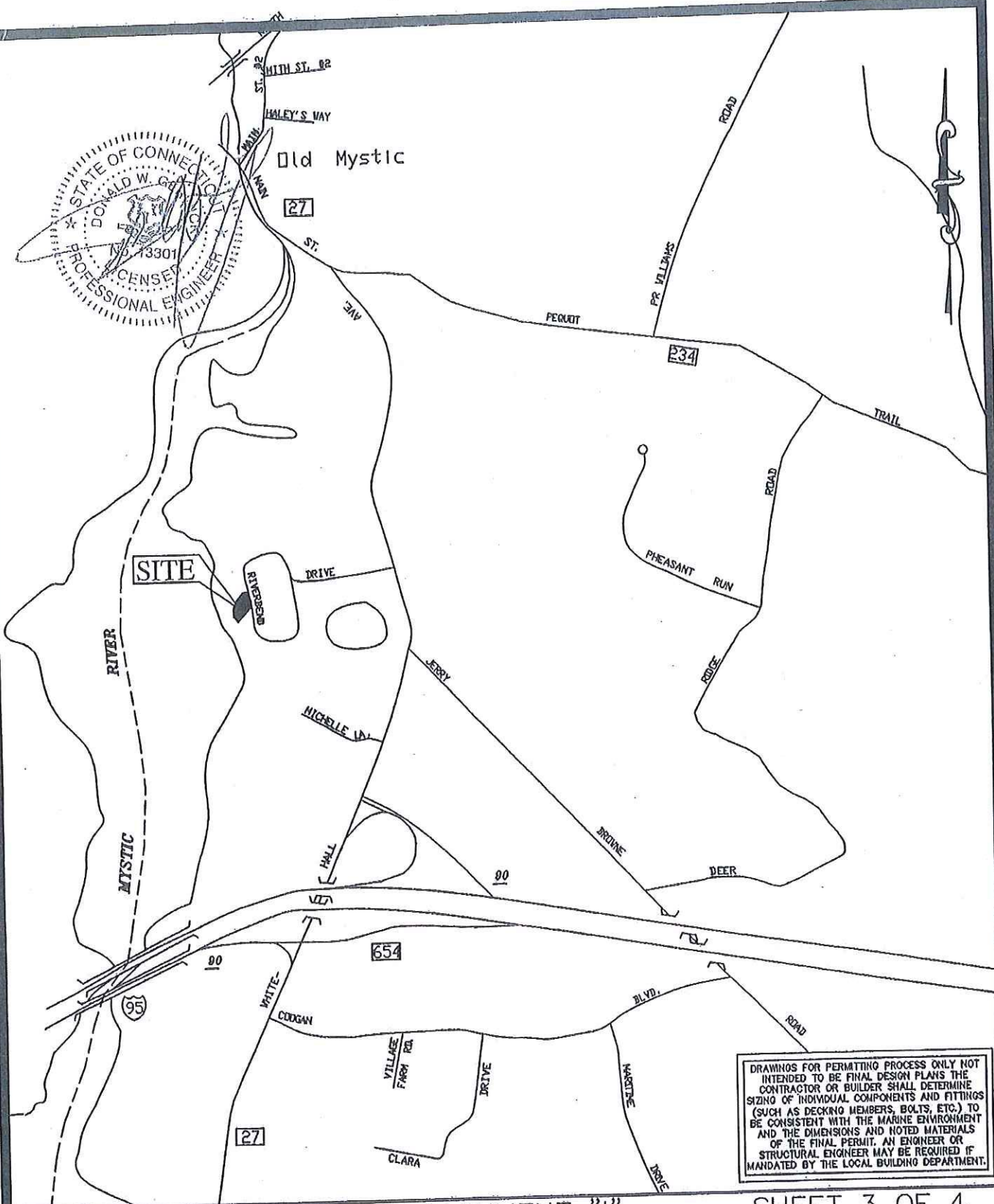
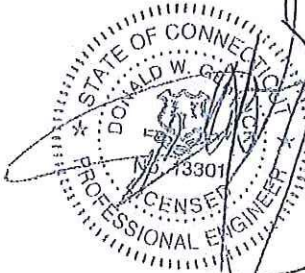
SHEET 2 OF 4

PROPOSED WOODEN PILING

PROPOSED DOCK



SHIPS LADDER SCHEMATIC N.T.S.



DRAWINGS FOR PERMITTING PROCESS ONLY NOT INTENDED TO BE FINAL DESIGN PLANS THE CONTRACTOR OR BUILDER SHALL DETERMINE SIZING OF INDIVIDUAL COMPONENTS AND FITTINGS (SUCH AS DECKING MEMBERS, BOLTS, ETC.) TO BE CONSISTENT WITH THE MARINE ENVIRONMENT AND THE DIMENSIONS AND NOTED MATERIALS OF THE FINAL PERMIT. AN ENGINEER OR STRUCTURAL ENGINEER MAY BE REQUIRED IF MANDATED BY THE LOCAL BUILDING DEPARTMENT.

FEBRUARY 6, 2015

ATTACHMENT "1"

SHEET 3 OF 4

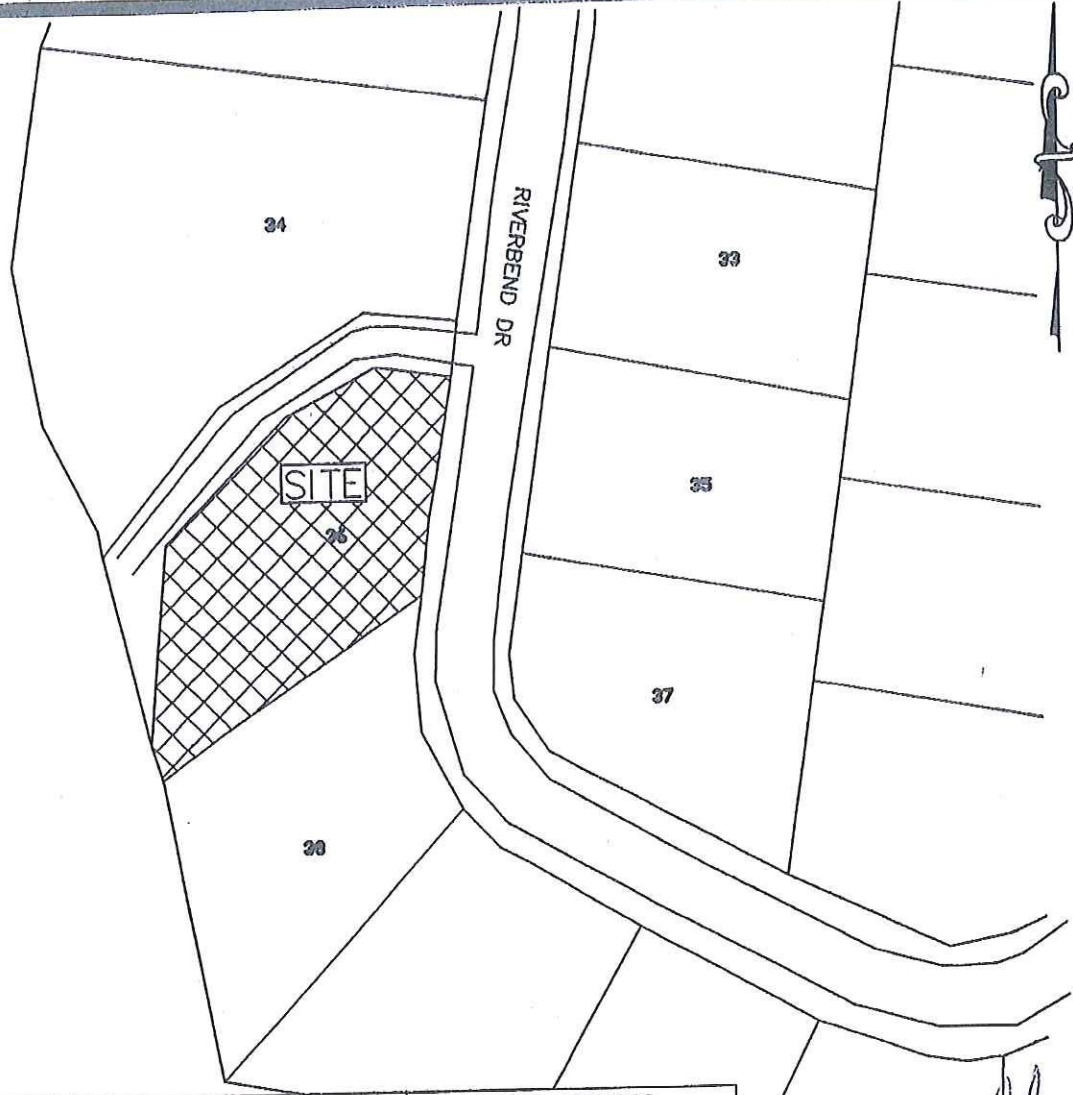
COASTAL PERMIT APPLICATION:
APPLICATION FOR DOCK PERMIT
APPLICANT: ANDRE MAURICE
36 RIVERBEND DRIVE
STONINGTON, CONNECTICUT

VICINITY MAP
SCALE: 1"=1000'±

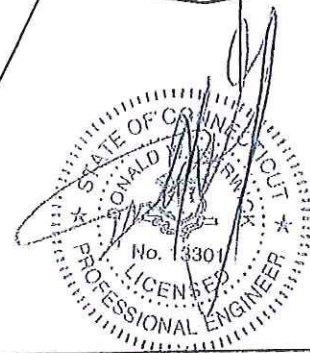


GERWICK - MERFEN L.L.C.
P.O. BOX 530 17 INDUSTRIAL DRIVE
WATERFORD, CONNECTICUT 06385
TEL. (860)442-2201 FAX (860)442-2205

MYSTIC RIVER



OWNERS	PROPERTY ADDRESS	MAILING ADDRESS
WILLIAM S FERGUSON	33 RIVERBEND DR STONINGTON, CT. 06378	SAME AS PROPERTY
JOHN COUTO	34 RIVERBEND DR STONINGTON, CT. 06378	34 RIVERBEND DR STONINGTON, CT. 06378
GREGORY K REIZIAN	35 RIVERBEND DR STONINGTON, CT. 06378	SAME AS PROPERTY
WILLIAM V ABT	37 RIVERBEND DR STONINGTON, CT. 06378	SAME AS PROPERTY
KENNETH E JR SCOTT & F JAYNE	38 RIVERBEND DR STONINGTON, CT. 06378	SAME AS PROPERTY
WHITEHALL HOMEOWNERS ASSOCIATION INC. C/O CAROL BARNES CRAIG	RIVERBEND DR STONINGTON, CT. 06378	18 RIVERBEND DRIVE STONINGTON, CT. 06378



DRAWINGS FOR PERMITTING PROCESS ONLY NOT INTENDED TO BE FINAL. DESIGN PLANS THE CONTRACTOR OR BUILDER SHALL DETERMINE SIZING OF INDIVIDUAL COMPONENTS AND FITTINGS (SUCH AS DECKING MEMBERS, BOLTS, ETC.) TO BE CONSISTENT WITH THE MARINE ENVIRONMENT AND THE DIMENSIONS AND NOTED MATERIALS OF THE FINAL PERMIT. AN ENGINEER OR STRUCTURAL ENGINEER MAY BE REQUIRED IF MANDATED BY THE LOCAL BUILDING DEPARTMENT.

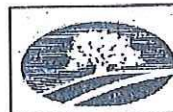
FEBRUARY 6, 2015

ATTACHMENT "I&K"

SHEET 4 OF 4

COASTAL PERMIT APPLICATION:
APPLICATION FOR DOCK PERMIT
APPLICANT: ANDRE MAURICE
36 RIVERBEND DRIVE
STONINGTON, CONNECTICUT

LIST OF ADJOINING
PROPERTY OWNERS
SCALE: 1"=100'



GERWICK - MBREEM L.L.C.
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SERVICE LIST

Maurice, Andre, Stonington (Old Mystic)

App. # 201501172-MG

Party

Representative(s)

Applicant

Andre Maurice
PO Box 134
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DEEP

Office of Long Island Sound Programs
79 Elm Street
Hartford, CT 06106

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Intervenor

Mystic Harbor Mgt Commission

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