

ADMINISTRATIVE AMENDMENT (PD) ADD2012-00041

ADMINISTRATIVE AMENDMENT
LEE COUNTY, FLORIDA

WHEREAS, Gulf Harbour Master Association, Inc., (hereinafter "GHMA") filed an application for administrative approval to a Planned Unit Development on a project known as Gulf Harbour Lakeshore Project to amend the Final Plan Approval to reflect the accurate location of the lakeshore system on property located at McGregor Boulevard, described more particularly as:

LEGAL DESCRIPTION: In Section 29, 30 and 31, Township 45 South, Range 24 East, Lee County, Florida:

See Exhibit "A"

WHEREAS, the property is a Development of Regional Impact (DRI State #DRI-12-8182-21) and was zoned to Planned Unit Development (PUD) by Resolution Z-82-112 and Ordinance 82-14, with subsequent amendments in Ordinances 84-16, 84-30, and 93-26 and with subsequent amendments in case numbers 81-09-08-DRI(a), 81-09-08-DRI(b), 81-09-08-DRI(c), 81-09-08-DRI(d), 95-01-089.13A 01.01, 95-01-089.13A 02.01, 95-01-089.13A 02.02, 95-01-089.13A 03.01, 95-01-089.13A 04.01, 95-01-089.13A 06.01, 95-01-089.13A 07.01, 95-01-089.13A 08.01, 95-01-089.13A 09.01, 95-01-089.13A 10.01, 95-01-089.13A 11.01, 95-01-089.13A 12.01, 95-01-089.13A 13.01, 95-01-089.13A 13.01, 95-01-089.13A 14.01, 95-01-089.13A 15.01, 95-01-089.13A 16.01, 95-01-089.13A 17.01, 95-01-089.13A 18.01, ADD2000-00020, ADD2000-00027, and ADD2000-00213, ADD2001-00053, ADD2002-00021, ADD2003-00186 and ADD2003-00109; and

WHEREAS, the subject property is located in the Suburban Future Land Use Category as designated by the Lee Plan; and

WHEREAS, Ordinance 82-14, as amended allows administrative changes to the Master Development Plan and the Lee County Land Development Code provides for certain administrative changes to planned unit development plans; and

WHEREAS, Gulf Harbour (fka Rivers Edge Yacht & Country Club) is a 548 acre residential community with a golf course and marina that was developed in accordance with the Master Development Plan approved by Resolution Z-82-112 and Ordinance 82-14, as amended; and

WHEREAS, in 2000, Gulf Harbour was owned by WCI Communities, Inc. (hereinafter "WCI") who recorded the Declaration of Covenants, Conditions and Restrictions for the operation and management of the community; and

WHEREAS, the community had WCI appointed Board of Director as representatives, until 2004 when the majority of the Board consisted of directors elected by the unit owners of Gulf Harbour; and

WHEREAS, in 2006 Lee County issued 5 code violations (VIO2006-06939, VIO2006-07018, VIO2006-06929, VIO2006-06934, and VIO2006-06936) to the property owners (which was WCI Communities, Inc. at that time) for various violations in conjunction with the existing lakes within the development. The code violations were for lakes that are not in compliance with the approved development orders, work being done without development order approval, lake slopes and littoral planting not in compliance with the approved development order; and

WHEREAS, in 2007, WCI filed an application (DCI2007-00053) to amend the PUD to address the existing lake issues, however in February of 2010, the case was withdrawn due to inactivity. In 2008, WCI filed bankruptcy. In August of 2009, WCI filed a Plan of Reorganization which included a name change to 2009 Real Estate LLC; and

WHEREAS, in December of 2009 and January of 2010, the Lee County Hearing Examiner heard the 5 code cases which resulted in finding 2009 Real Estate LLC (fka WCI) guilty of each code violation. In April of 2010, a Code Enforcement Order with a fine of \$250.00 per day was issued for each code case as the violations had not been abated. In May of 2010, the Code Enforcement Orders were recorded in the Public Records of Lee County as Instrument Numbers 2010000121771 thru 2010000121775. The GHMA was not notified or aware of the 5 code violations or the Hearing Examiner's decision until after the hearings; and

WHEREAS, in October of 2010, as a result of a bankruptcy court order, an Amended Code Enforcement Order and Order Quashing the Earlier Code Enforcement Case was issued by the Hearing Examiner and recorded in Instrument Numbers 2010000266891 thru 2010000266895; and

WHEREAS, the GHMA wanted to take title to the Subject Property to abate the outstanding violations but wanted to establish limits to the liability for the unabated violations, outstanding fines and accrued liens and cost before taking title; and

WHEREAS, on February 27, 2012, GHMA and Lee County entered into an Agreement for Mitigation with conditions, see Exhibit "B" to mitigate the outstanding and unpaid fines in exchange for a timely abatement of the continuing violations; and

WHEREAS, on February 27, 2012, the Hearing Examiner accepted the Agreement for Mitigation with conditions and issued an Amended Code Enforcement Order to GHMA, see Exhibit "C"; and

WHEREAS, GHMA acquired the property in April of 2012 and has filed the application to amend the Final Plan Approval to reflect the accurate location of the lakeshore system; and

WHEREAS, Ordinance 93-26, Section 3.13 allows minor changes in the Master Development Plan to be done administratively by the Director; and

WHEREAS, the applicant submitted a Lake Bank Stabilization plan, see Exhibit "D" and a Lake Bank Sections plan, see Exhibit "E" that reflects which lakes needs to be restored and several techniques that could be used which will be determined at time of local development order; and

WHEREAS, the applicant submitted a Limited Development Order application (LDO2012-00212) for the restoration of the bank slopes which is pending the approval of this ADD; and

WHEREAS, the Lake Bank Stabilization Plan also depicts as requested by Lee County the shoreline of Lakes E (as depicted in county LDO), P as approved by County letter of transmittal, Q and R as inspected and approved by Lee County; and

WHEREAS, both Development Services and Environmental Sciences have reviewed the plans and recommend approval with conditions #2 and #3; and

WHEREAS, the subject application and plans have been reviewed by the Lee County Department of Community Development in accordance with applicable regulations for compliance with all terms of the administrative approval procedures; and

WHEREAS, it is found that the proposed amendment does not increase density or intensity within the development; does not decrease buffers or open space required by the LDC; does not underutilize public resources or infrastructure; does not reduce total open space, buffering, landscaping or preservation areas; and does not otherwise adversely impact on surrounding land uses.

NOW, THEREFORE, IT IS HEREBY DETERMINED that the application for administrative approval for an amendment to the Gulf Harbour PUD amending the Final Plan Approval to reflect the accurate location of the lakeshore system is **APPROVED**.

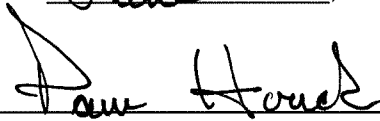
Approval is subject to the following conditions:

1. **The Development must be in compliance with the Lake Bank Stabilization plan and the Lake Bank Sections plan dated June 8, 2012. These 2 plans for ADD2012-00041 is hereby APPROVED and adopted. Reduced copies are attached hereto as Exhibit "D" and Exhibit "E".**
2. **The applicant must obtain a Development Order prior to the initiation of any work approved under this ADD.**
3. **Prior to local development order approval, the development order plans must provide compensatory littorals for hardened shoreline compliant with LDC Section 10-418(3). Each lake must be planted with at least four different native herbaceous plant species per LDC Section 10-418.**

4. The terms and conditions of the original zoning ordinance and resolution, as amended, remain in full force and effect.

DULY SIGNED this 20th day of June, A.D., 2012.

BY: _____



Pam Houck, Director
Division of Zoning
Department of Community Development

Exhibits:

- A – Legal Description
- B – Agreement for Mitigation dated February 27, 2012
- C – Amended Code Enforcement Order dated March 1, 2012
- D - Lake Bank Stabilization plan stamped received June 11, 2012
- E - Lake Bank Sections plan stamped received June 11, 2012

Exhibit "A"

Description

Lakes within Gulf Harbor Yacht and Country Club

In Sections 29, 30, and 31, Township 45S., Range 24E., Lee County, Florida

All lakes shown on the Lake Bank Stabilization Plan date stamped Received June 11, 2012 described as follows:

Lake A & B within Tract N as recorded in Plat Book 55 Pages 6 thru 27;

Lake C within Tract N as recorded in Plat Book 55 Pages 6 thru 27;

Lake D within Tract Q as recorded in Plat Book 55 Pages 6 thru 27;

Lake D1 within Tract Q as recorded in Plat Book 55 Pages 6 thru 27;

Lake D2 within Tract Q as recorded in Plat Book 55 Pages 6 thru 27;

Lake E within Tract J as recorded in Plat Book 55 Pages 6 thru 27;

Lake E1 within Tract O as recorded in Plat Book 55 Pages 6 thru 27;

Lake F within Tract M as recorded in Plat Book 55 Pages 6 thru 27;

Lake F1 within Tract C as recorded in Plat Book 56 Pages 1 thru 4;

Lake G within Tract FF as recorded in Plat Book 55 Pages 6 thru 27;

Lake H within Tract B as recorded in Plat Book 55 Pages 6 thru 27;

Lake I within Tract U as recorded in Plat Book 55 Pages 6 thru 27;

Lake J/K within Tract B as recorded in Plat Book 55 Pages 6 thru 27;

Lake L within Tract B as recorded in Plat Book 55 Pages 6 thru 27;

Lake M within Tract B as recorded in Plat Book 55 Pages 6 thru 27;

Lake N within Tract B as recorded in Plat Book 55 Pages 6 thru 27;

Lake O within Tract B as recorded in Plat Book 55 Pages 6 thru 27;

Lake P within Lots 22 thru 29 and Lots 34-37 as recorded in Plat Book 59 Pages 20 thru 22;

Lake Q within Tract G as recorded in Plat Book 58 Pages 3 thru 4;

Lake R within Tract H as recorded in Plat Book 55 Pages 6 thru 27.

REQUESTED AGREEMENT FOR MITIGATION

THIS Requested Agreement for Mitigation ("*Agreement*") is made this 27th day of February, 2012, between LEE COUNTY, a political subdivision of the State of Florida ("*County*"), and Gulf Harbour Master Association, Inc., a Florida Non Profit Corporation, whose address is 15000 McGregor Boulevard, Fort Myers, Florida 33908 ("*Gulf Harbour*"), and will be presented to the Lee County Hearing Examiner ("*Hearing Examiner*") for approval.

WHEREAS, on December 14, 2009 and January 4, 2010, the Hearing Examiner found violations of Lee County Land Development Code ("*LDC*") Chapter 10, with respect to real property located at 14900 McGregor Boulevard, Fort Myers, Lee County, Florida, on property owned by WCI Communities, Inc., subsequently owned by 2009 Real Estate, LLC, in five code enforcement cases numbered VIO2006-06929, VIO2006-06934, VIO2006-06936, VIO2006-06939 and VIO2006-07018 ("*Code Enforcement Cases*");

WHEREAS, the Code Enforcement Cases relate primarily to lakes and lake shorelines that are part of the following common areas within the platted residential development known as the Gulf Harbour Yacht and Country Club Planned Unit Development, f/k/a River's Edge Yacht and Country Club:

<u>Case Numbers</u>	<u>STRAP Numbers in 2006</u>	<u>Lakes/Lake Areas</u>
VIO2006-06929	30-45-24-07-0000B.00CE	Lakes JK, L, M and N
VIO2006-06934	30-45-24-07-0000C.00CE	Lake F1
VIO2006-06936	30-45-24-07-0000O.00CE	Lakes AB, C, E1 and F
VIO2006-06939	30-45-24-07-0000B.0050 (f/k/a 30-45-27-07-0000B.0010)	Lakes D, D1 and H
VIO2006-07018	30-45-24-07-00U00.00CE	Lake I

The above-referenced violations are on portions of the real property described in Schedule X of the Quitclaim Deed of WCI Communities, Inc., f/k/a WCI 2009 Corporation to WCI Communities, Inc., dated September 3, 2009, recorded September 8, 2009, in the Public Records of Lee County, Florida, in Instrument Number 2009000243859 ("*Subject Property*");

WHEREAS, each of the above-referenced Code Enforcement Orders required abatement of the cited violation(s) on or before April 14, 2010, or face a fine of \$250.00 per day, continuing each and every day the aforesaid violation(s) remain unabated;

WHEREAS, the cited violations were unabated on April 14, 2010, as required by the Lee County Hearing Examiner's Order; and remain unabated as of the date herein;

WHEREAS, Code Enforcement Orders were recorded in the Public Records of Lee County, Florida on May 14, 2010, as follows, for unpaid fines and unpaid costs of prosecution:

<u>Case Numbers</u>	<u>Recorded Instrument Numbers</u>
VIO2006-06929	2010000121771
VIO2006-06934	2010000121773
VIO2006-06936	2010000121774
VIO2006-06939	2010000121772
VIO2006-07018	2010000121775

WHEREAS, Pursuant to Florida Statutes Chapter 162, the recorded Code Enforcement Orders for unpaid and accrued fines resulting from unabated violations constituted a lien against all property of WCI Communities, Inc., and 2009 Real Estate, LLC;

WHEREAS, as a result of the Order of the Court in and for the United States Bankruptcy Court for the District of Delaware, In re WCI Communities, Inc., et al., Case No. 08-11643 ("*WCI Bankruptcy*"), and at the request of the County Attorney, the Hearing Examiner entered an Amended Code Enforcement Order and Order Quashing Earlier Code Enforcement Order in each of the above-referenced cases limiting the effect of any resulting code enforcement lien for unpaid fines and cost to the Subject Property (owned by 2009 Real Estate, LLC). Those new orders are recorded as follows

<u>Case Numbers</u>	<u>Recorded Instrument Numbers</u>
VIO2006-06929	2010000266894
VIO2006-06934	2010000266893
VIO2006-06936	2010000266891
VIO2006-06939	2010000266892
VIO2006-07018	2010000266895

WHEREAS, Gulf Harbour seeks to take title to the Subject Property to abate the outstanding violations, but wants to establish limits to the liability for the unabated violations, outstanding fines and accrued liens, and costs before doing so;

WHEREAS, through February 27, 2012, the following accrued fines and costs are due and owing to the County as a result of the unabated Code Enforcement Cases:

<u>Case Numbers</u>	<u>Accrued Fine Thru 2-27-12</u>	<u>Costs</u>	<u>Totals</u>
VIO2006-06929	\$171,000.00	\$ 406.00	\$171,406.00
VIO2006-06934	\$171,000.00	\$ 210.00	\$171,210.00
VIO2006-06936	\$171,000.00	\$ 222.00	\$171,222.00
VIO2006-06939	\$171,000.00	\$ 232.00	\$171,232.00
VIO2006-07018	<u>\$171,000.00</u>	<u>\$ 208.00</u>	<u>\$171,208.00</u>
Totals	\$855,000.00	\$1,278.00	\$856,278.00

WHEREAS, if approved by the Lee County Hearing Examiner, Gulf Harbour is otherwise willing to pay to the County the unreimbursed costs referenced above as a mitigated fine/lien to release the Subject Property from the effect of the County's code enforcement fines and resulting recorded liens;

WHEREAS, the parties agree that the code enforcement fines will continue to accrue and the recorded liens will remain in effect in their full accrued amounts if mitigated amount of fine is not paid on or before March 30, 2012, at 4:30 p.m., and the violations are not abated on or before July 31, 2018, at 5:00 p.m.; and

WHEREAS, it is in the best interest of the citizens of Lee County to facilitate abatement of the violations by agreeing to release the Subject Property from the force and effect of any recorded orders imposing fines/liens upon the terms and conditions as set forth herein.

IN CONSIDERATION of the mutual covenants contained in this document, the parties agree as follows:

1. The recitals set forth above are correct and incorporated into this agreement.
2. The parties agree the five above-referenced Code Enforcement Cases will be abated as follows:

- A. Gulf Harbour must obtain administrative Final Plan Approval (FPA) from the County's Division of Zoning before the issuance of any Development Order.
- B. Gulf Harbour must obtain appropriate development order approval(s) from the County's Division of Development Services prior to commencement of any work on the Subject Property necessary to abate the outstanding violations.
- C. The FPA and Development Order(s) will be in substantial conformity with the terms, conditions and specifications set forth on a 4-sheet set of plans entitled "Gulf Harbour Yacht and Country Club Lake Bank Restorations," date-stamped "Received Sep - 8 2011 Environmental Sciences," prepared by Hans Wilson & Associates, and a single sheet specification entitled "Lake Shoreline - Littoral Plant Quantification Methodology," dated August 12, 2011, prepared by Rick Joyce, Forestry Resources Ecological, Inc., copies of which are attached in Exhibit "A" ("*Gulf Harbour Plans*"), the terms of which are incorporated herein by reference.
- D. Gulf Harbour must obtain corresponding Certificates of Compliance (CC) from the County for any work completed under an approved Development Order for the Gulf Harbour Plans.
- E. Other work or projects not part of the Gulf Harbour Plans will require separate permitting or approval(s).
- F. Gulf Harbour will provide the Director of the Lee County Department of Community Development ("*Director*") with annual updates on the anniversary of this Agreement to demonstrate their progress towards abating the outstanding violations. Such updates will be required until abatement is achieved as set forth herein.

Gulf Harbour's failure to provide annual updates within 30 days of each anniversary date or, if in the opinion of the Director, an annual update fails to demonstrate reasonable progress towards the abatement of outstanding violations, then the Director may request that Gulf Harbour be scheduled to appear before the Hearing Examiner. The Hearing Examiner will then determine whether this Agreement will become null and void or if there is a reasonable basis for the terms and conditions of this Agreement to remain in full force and effect.

The Hearing Examiner may also extend the final date for abatement upon a showing of good cause by Gulf Harbour; however, Gulf Harbour and the County may, by mutual consent, join in a request to the Hearing Examiner to extend the date for abatement.

Gulf Harbour agrees to accept all County notices (e.g., Notice of Violation, Notice to Appear, etc.) related to these Code Enforcement Cases when sent to the Association President and Registered Agent identified in Gulf Harbour's most recent annual filing with the Florida Department of State, Division of Corporations. As of the date of this agreement, these would be:

Gene Custer, President
11471 Wellfleet Drive
Fort Myers, Florida 33908

Suitor, Middleton, Cox & Associates
15751 San Carlos Boulevard #8
Fort Myers, Florida 33908

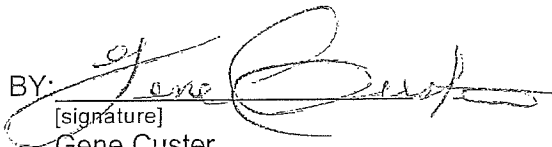
3. The parties agree that through February 27, 2012, the County has incurred costs for administration and prosecution relating to the five Code Enforcement Cases in the amount of \$1,278.00.
4. The parties agree that the accrued fines on the Subject Property, at the rate of \$250.00 per day in each of the five above-referenced Code Enforcement Cases from April 14, 2010 to February 27, 2012, total \$855,000.00, and said fines will continue to accrue until the violations have been abated.
5. The County will not object to the Hearing Examiner mitigating the accrued fine/lien on this property to the sum of \$1,278.00, with no additional balance due or owing, but only if Gulf Harbour pays the mitigated fine/lien amount no later than 4:30 p.m. on March 30, 2012 and if the violations are abated on or before July 31, 2018 at 5:00 p.m. The date for payment of the mitigated fine/lien may not be extended except by mutual agreement of Gulf Harbour, the Director and the Office of the County Attorney.
6. Notwithstanding Gulf Harbour's payment of the mitigated fine/lien amount of \$1,278.00 no later than 4:30 p.m. on March 30, 2012, the parties understand and agree that the fines on the subject property will continue to accrue at the rate of \$250.00 per day in each of the five above-referenced Code Enforcement Cases from April 14, 2010, until the date the cited violations are abated, but no later than 5:00 p.m. on July 31, 2018, as set forth above. The basis for the continuation of the fines and any accrued fines/liens is the continued existence of the violations found in the Hearing Examiner's Code Enforcement orders referenced herein; however, an individual Release of Lien will be issued upon timely abatement of any cited violation herein.
7. Upon receipt of timely payment of the amount of the mitigated fines/liens no later than 4:30 p.m. on March 30, 2012, and verification no later than 5:00 p.m.

on July 31, 2018 that the violations have been abated pursuant to the County's issuance of Certificate(s) of Compliance for the repairs/improvements set forth in the Gulf Harbour Plans, the County will prepare and provide Gulf Harbour with a Release of Lien covering the Subject Property.

8. Should the terms of this Agreement not be accepted by the Hearing Examiner and made a part of a resulting order for mitigation, then this Agreement may be null and void and of no further force or effect at the request of either party.

Gulf Harbour and the County have hereunto set their hands intending to be bound as of the date first written above.

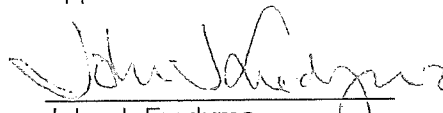
Gulf Harbour Master Association, Inc.

BY: 
[signature]
Gene Custer
President
Duly Authorized

Lee County, Florida

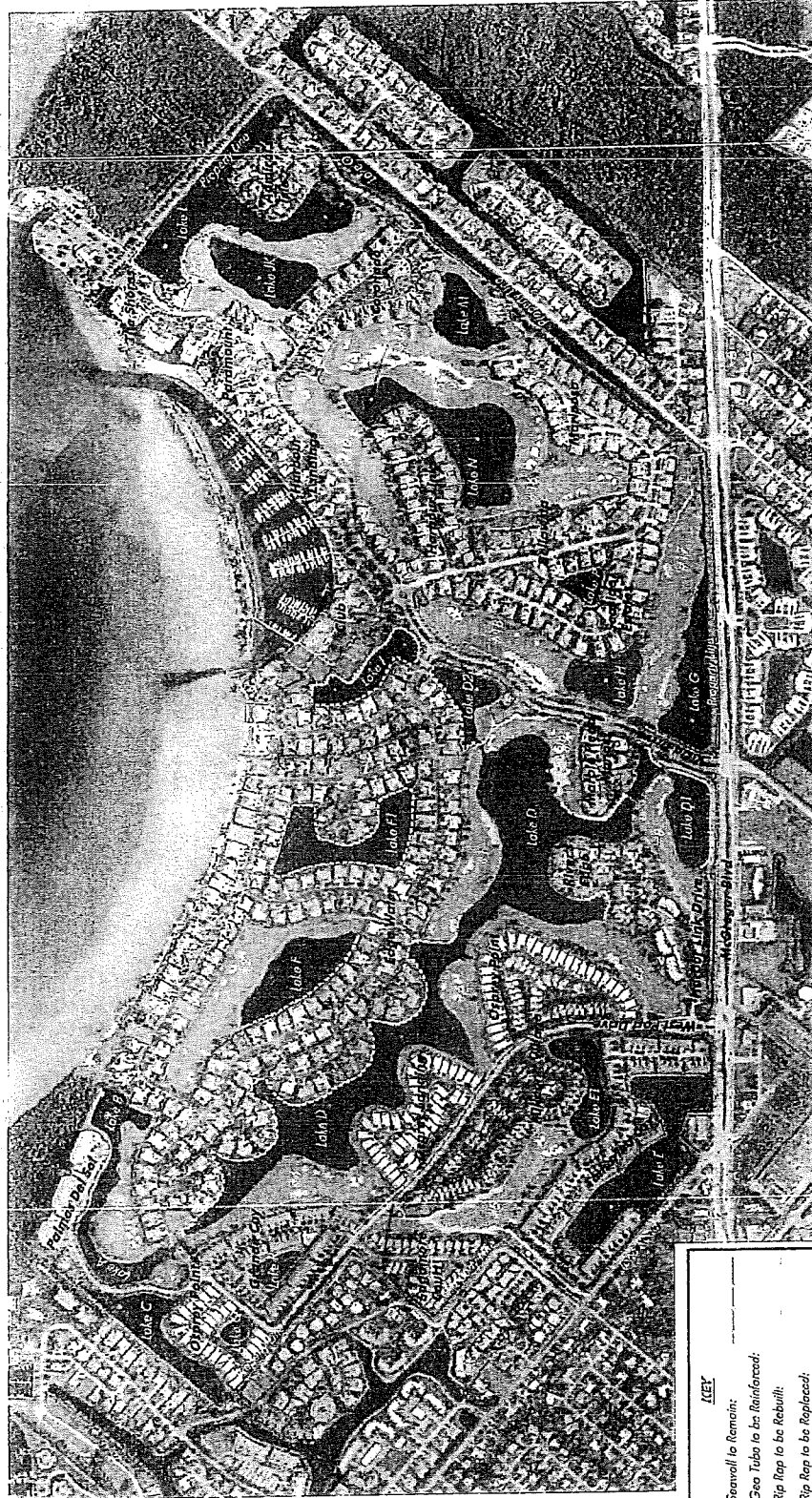
BY: 
Robert Stewart
Building Official

Approved as to form


John J. Fredyma
Assistant County Attorney

Attachment: Exhibit "A" - 4-sheet set of plans entitled "Gulf Harbour Yacht and Country Club Lake Bank Restorations," and a single sheet specification entitled "Lake Shoreline - Littoral Plant Quantification Methodology."

Lee County 2010 Aerial



KEY

Seawall to Remain:
Geo Tube to be Replaced:
Rip Rap to be Rebuilt:
Rip Rap to be Replaced:
Any shoreline not otherwise denoted is
intended to be typical soil and sod
stabilization.

This plan depicts
existing lake bank
conditions.

Lakes E, G, P, Q, and
R are not part of this
plan.

Gulf Harbour Yacht and Country Club
Lake Bank Restoration

Existing Conditions Plan



MMS WILSON & ASSOCIATES, INC.
11101 W. 11TH AVE., SUITE 100
FORT MYERS, FL 33907

FOR GULF HARBOUR YACHT AND COUNTRY CLUB

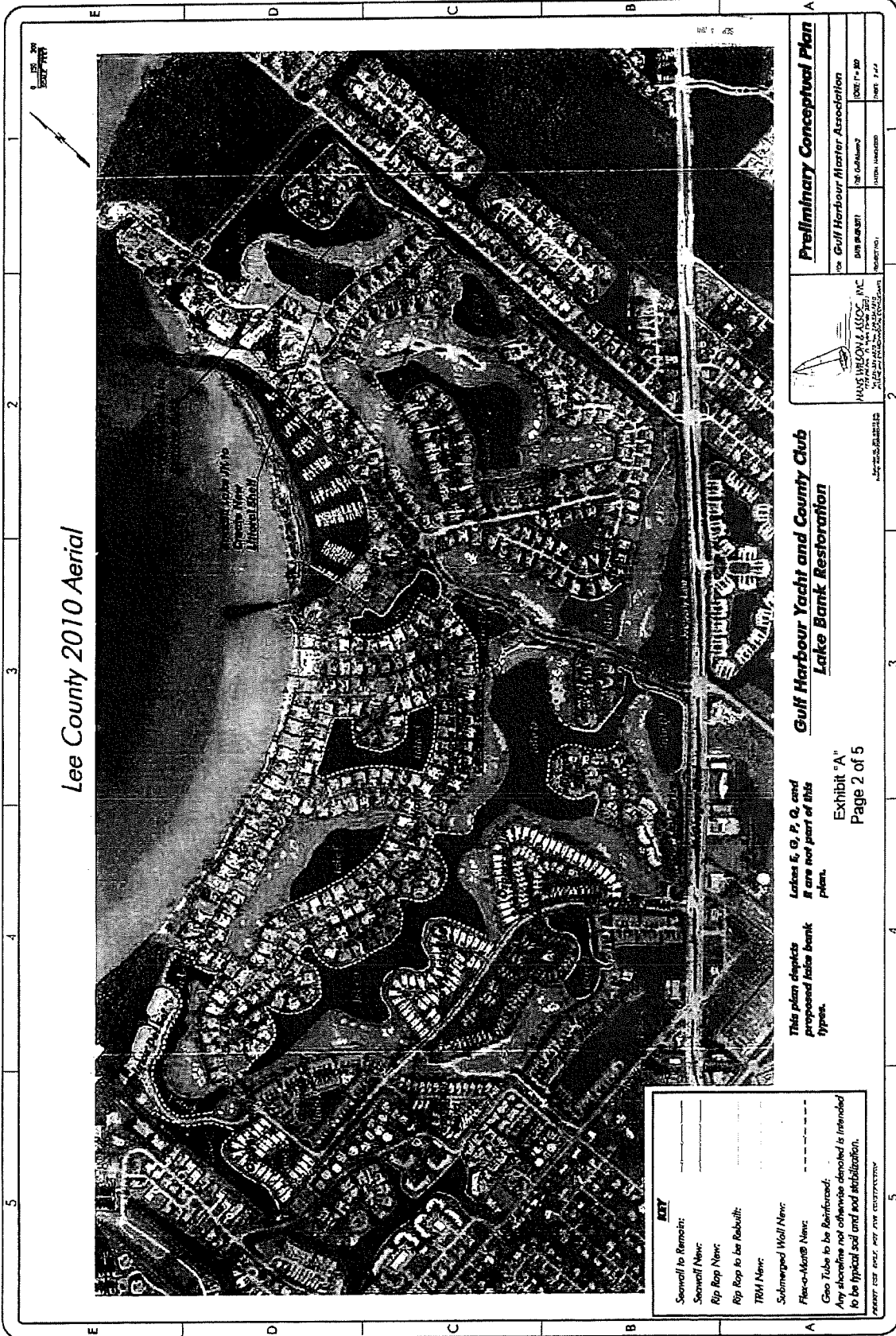
DATE: 04/13/11

PROJECT NO.: 10002100

SCALE: 1"=40'

REVIEW: LEE COUNTY, FOR THE RESTORATION

Exhibit "A"
Page 1 of 5



Lee County 2010 Aerial

- KEY**
- Seawall to Remain: _____
 - Seawall New: _____
 - Rip Rap New: _____
 - Rip Rap to be Rebuilt: _____
 - TBM New: _____
 - Submerged Wall New: _____
 - Flap-a-Mat® New: _____
 - Geo Tube to be Reinforced: _____
- Any shoreline not otherwise denoted is intended to be typical soil and not stabilization.

This plan depicts proposed lake bank types.

Lakes E, G, P, Q, and R are not part of this plan.

Gulf Harbour Yacht and County Club Lake Bank Restoration

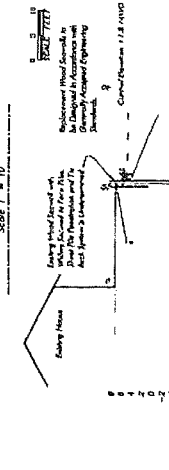
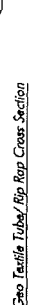
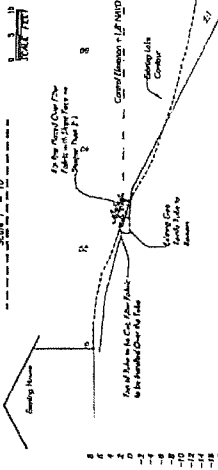
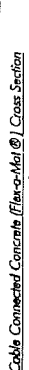
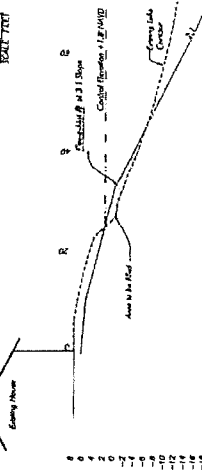
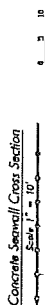
Exhibit "A"
Page 2 of 5

Preliminary Conceptual Plan

Prepared by: **HASLORSON & ASSOCIATES, INC.**
1115 W. 1st Ave., Suite 100, Fort Lauderdale, FL 33304
Phone: (954) 561-1115
Fax: (954) 561-1116
Email: info@haslorsongroup.com

For: **Gulf Harbour Master Association**

DATE: 06/01/2011
PROJECT: 100017-1-00
SHEET: 2 of 4

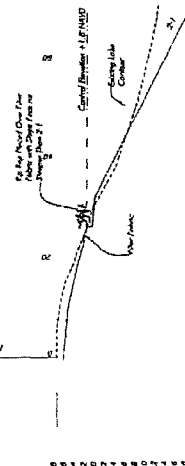


Wooden Seawall Replacement Cross Section

NOTE: All alterations reference MAINT.
PERMIT USE ONLY, NOT FOR CONSTRUCTION

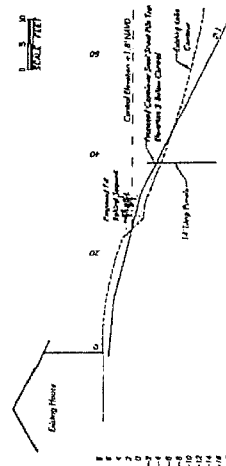
[illegible]

Crossed Serranids. Prepared as a preserved replacement of anatomy useful as deep-sea water and as the environment. None of the following serranids will fit the fish system as proposed.

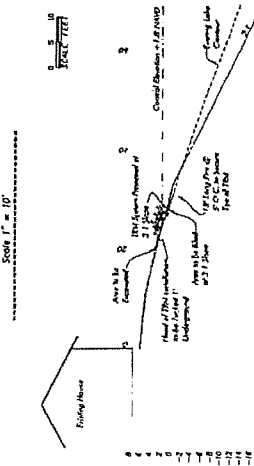
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Proposed Rip Rap Revetment Cross Section

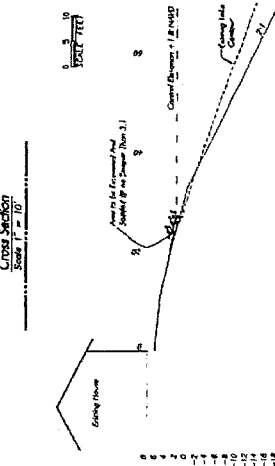
***Gulf Harbour Yacht and County Club
Lake Bank Restoration***

Exhibit "A"
Page 3 of 5

Submerged Canilever Steel Seawall Cross Section



Turf Reinforcement Mat (TRM)



Soil And Sod Cross Section

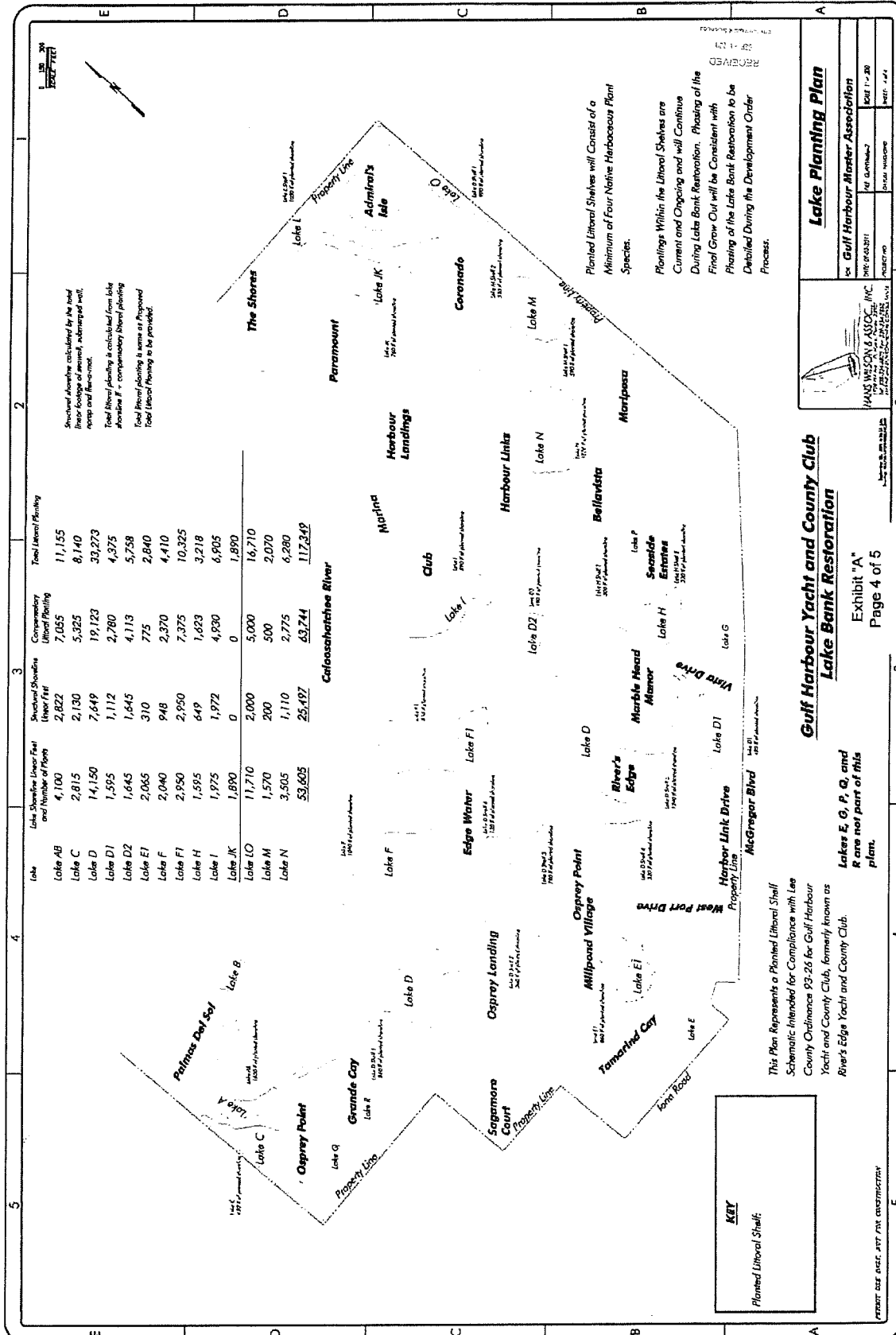
Scale $1^{\circ} = 10'$

----- Typical Existing Lake Contour
----- Typical Lake Section As Shown On Various
GSA Notebook B.O.'s



Gulf Harbour Master Association
Lake Bank Sections

DATE	DATE OF DEPOSIT	AMOUNT ON DEPOSIT	DATE OF PAYMENT	AMOUNT PAID	DATE OF RECEIPT	AMOUNT RECEIVED



Lake Planting Plan

For Gulf Harbour Master Association

DATE: 11-20

BY: [Signature]

PROJECT: [Text]

SCALE: 1" = 40'

Gulf Harbour Yacht and Country Club

Lake Bank Restoration

Exhibit "A"

Page 4 of 5

This Plan Represents a Planted Littoral Shelf Schematic Intended for Compliance with Lee County Ordinance 93-26 for Gulf Harbour Yacht and Country Club, formerly known as River's Edge Yacht and Country Club.

KEY

Planted Littoral Shelf

PROJECT: DUE DATE: NOT FOR CONSTRUCTION

Lake Shoreline - Littoral Plant Quantification Methodology

This methodology provides a measureable and consistent way to measure existing, established littoral herbaceous plants along a lake shoreline.

Groups or clumps of herbaceous littoral plants can quickly and accurately be measured by their length and width. A total coverage area can then be determined. As an example, a measured eight feet wide by two hundred feet long (8' X 200') area of littoral plants would equal 1,600 square feet of coverage area.

A six inch (6") size herbaceous littoral plant existing coverage area would be a reasonable and justifiable equal to one littoral plant. The area of a 6" by 6" square is 36 square inches.

To emphasize, this methodology would only be applicable to existing, established herbaceous littoral plants and would not be used for newly installed herbaceous littoral plants. New herbaceous littoral plants should and can be individually counted.

This methodology is only applicable to the littoral plant requirements in Gulf Harbour.

PARCEL #: 30-45-24-07-0000B.00CE
30-45-24-07-0000C.00CE
30-45-24-07-0000O.00CE
30-45-24-07-00U00.00CE
30-45-24-07-0000B.0050 (f/k/a 30-45-24-07-0000B.0010)

THIS SPACE FOR RECORDING

**BEFORE THE HEARING EXAMINER OF
LEE COUNTY, FLORIDA**

LEE COUNTY, FLORIDA

Petitioner,

vs.

2009 REAL ESTATE, LLC,
F/K/A 2009 REAL ESTATE CORPORATION,
F/K/A WCI COMMUNITIES, INC.,
AND GULF HARBOUR MANAGEMENT ASSOCIATION
(PREVIOUS OWNER)
GULF HARBOUR MASTER ASSOCIATION, INC
(PROSPECTIVE OWNER)

Respondent

CASE NO.: 2006-06929

2006-06934

2006-06936

2006-07018

2006-06939

AMENDED CODE ENFORCEMENT ORDER

THESE CASES were first heard by the Lee County Hearing Examiner at a public hearing on December 14, 2009, thereafter Orders were entered which found that violations existed on the subject property and required the Respondent, 2009 REAL ESTATE, LLC, F/K/A 2009 REAL ESTATE CORPORATION F/K/A WCI COMMUNITIES, INC, AND GULF HARBOUR MANAGEMENT ASSOCIATION (PREVIOUS OWNER), as the responsible person or entity, to complete certain actions that would abate these violations by a date certain or face the imposition of a specified fine.

lm.3/1/12

On April 14, 2010, the Hearing Examiner received testimony that the violations have not been abated and it was ORDERED that Respondent pay to Lee County a fine of \$250.00 per day, in each of the five above-referenced Code Enforcement Cases, beginning on April 14, 2010, and continuing for each subsequent day the violations existed on the property described in the aforesaid Order.

These violations continue as of the date of this Order.

On February 27, 2012, with the Respondent, ~~2009 REAL ESTATE, LLC, F/K/A 2009 REAL ESTATE CORPORATION, F/K/A WCI COMMUNITIES, INC, AND GULF HARBOUR MANAGEMENT ASSOCIATION~~ GULF HARBOUR MASTER ASSOCIATION, INC. (PROSPECTIVE OWNER), represented by Beverly Grady, who presented testimony that the Respondent Association seeks to take title of the subject property from Respondent listed above to abate the outstanding violations, but wants to establish limits to the liability for the unabated violations, outstanding fines and accrued liens, and costs before doing so. Further, Lee County Attorney's Office agreed to the pre-abatement mitigation of the outstanding and unpaid fines on the subject property, in exchange for the Respondent's Association's timely abatement of the continuing violations.

Upon due consideration of the testimony and evidence presented and the Hearing Examiner being otherwise fully advised, it is ORDERED that

1. The fines/liens under the Orders Imposing Fine/Lien on the subject property, which has accrued at the rate of \$250.00 per day, in each of the five above-referenced Code Enforcement Cases, beginning April 14, 2010 through February 27, 2012, for a total of \$856,278.00 for fine lien and costs, is mitigated solely for the Association to \$1,278.00 for administrative costs, provided:

A. The violation is fully abated by July 31, 2018, as described on the attached Exhibit A, Agreement for Mitigation, and

B. ~~Respondent, 2009 REAL ESTATE, LLC, F/K/A 2009 REAL ESTATE CORPORATION, F/K/A WCI COMMUNITIES, INC AND GULF HARBOUR MANAGEMENT ASSOCIATION~~ GULF HARBOUR MASTER ASSOCIATION, INC. (PROSPECTIVE OWNER), pays the costs herein - in the total amount of \$1,278.00, no later than March 30, 2012.

2. If the violations have not been abated by July 31, 2018, AND the mitigated amount has not been paid by March 30, 2012, the subject property liens will not be released and the Code Enforcement fines on the subject property, which commenced on April 14, 2010, will be re-installed, with the effective date of February 27, 2012, and will continue to accrue until the violations are fully abated.

In no event will any lien resulting from this Order attach to the personal property or create personal liability against any Respondent who is a debtor in a Bankruptcy proceeding, under Title 11 of the United States Code.

Payment may be in the form of cash, check (made payable to Lee County BOCC), credit card, money order, or on line at www.lee-county.com/econnect (enter 2006-06929, 2006-06934, 2006-06936, 2006-07018 or 2006-06939 as your case #). You may pay in person at the Code Enforcement Office located at 1500 Monroe Street, First Floor, downtown Fort Myers, Florida 33901, or mail payments to Lee County Code Enforcement, P. O. Box 398, Fort Myers, Florida 33902 and reference your case numbers (2006-06929, 2006-06934, 2006-06936, 2006-07018 & 2006-06939) on the check.

DONE AND ORDERED IN HEARING 1500 Monroe Street, Fort Myers, Lee County, Florida on February 27, 2012. **Amended and signed to correct the Respondent's name on March 1, 2012.**



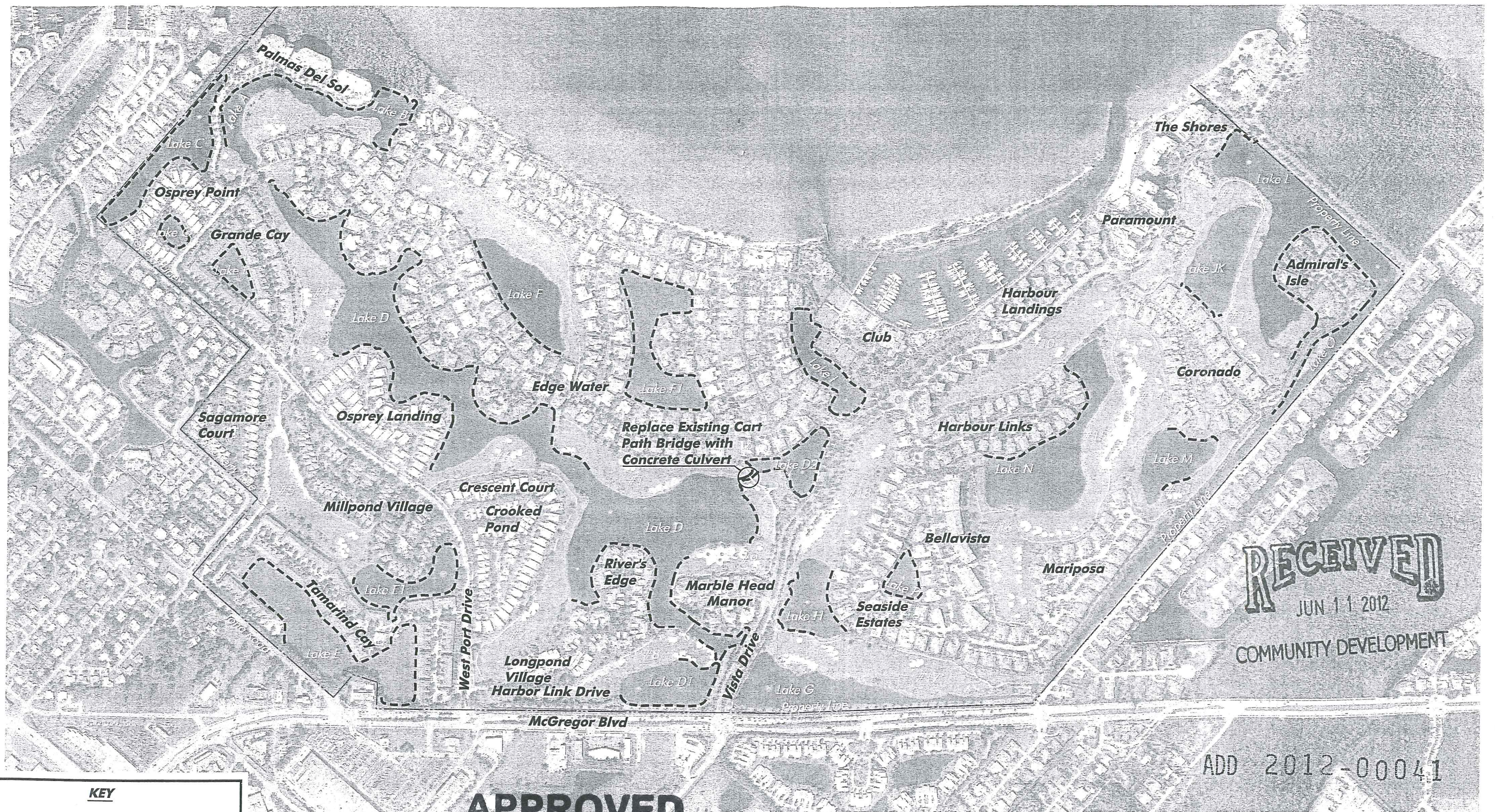
DIANA M. PARKER
Chief Hearing Examiner
Lee County, Florida

A copy of this order has been furnished by regular U.S. Mail to Beverly Grady, 2320 First Street, Ste 1000, Fort Myers, Florida 33901; Robert Ladner, P.E., 14270 Royal Harbour Court, Ste 419, Fort Myers, Florida 33908; and Doug Roberts, 11130 Harbour Yacht Court, Ste 12E, Fort Myers, Florida 33908 on March 2, 2012.

APPEAL: An aggrieved party may appeal an Order of the Hearing Examiner of Lee County to the Circuit Court. The appeal shall be limited to appellate review of the record created before the Hearing Examiner. An appeal shall be filed within thirty (30) days of the execution of the Order to be appealed.

Lee County 2011 Aerial

0 150 300
SCALE FEET



KEY

Existing/Proposed
Shoreline Stabilization:
Any shoreline not otherwise denoted is intended to be typical soil and sod stabilization.

APPROVED
Plan

This plan depicts proposed lake bank stabilization locations

Gulf Harbour Yacht and County Club
Lake Bank Restoration

Subject to Case # ADD2012-00041
Date 6/20/2012

Final Plan Amendment

HANS WILSON & ASSOC., INC.
1938 Hill Ave. Ft. Myers, Florida 33901
Tel: 239-334-6870 Fax: 239-334-7810
MARINE and ENVIRONMENTAL CONSULTANTS

Lake Bank Stabilization Plan

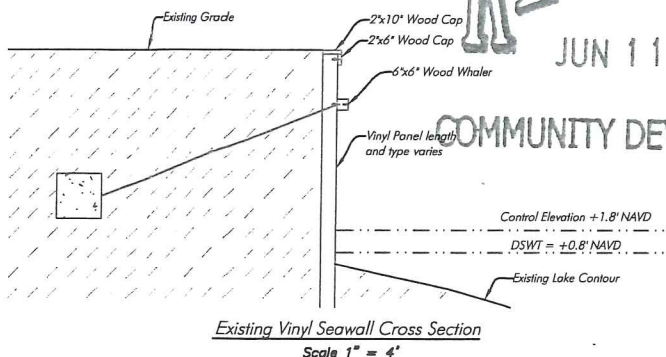
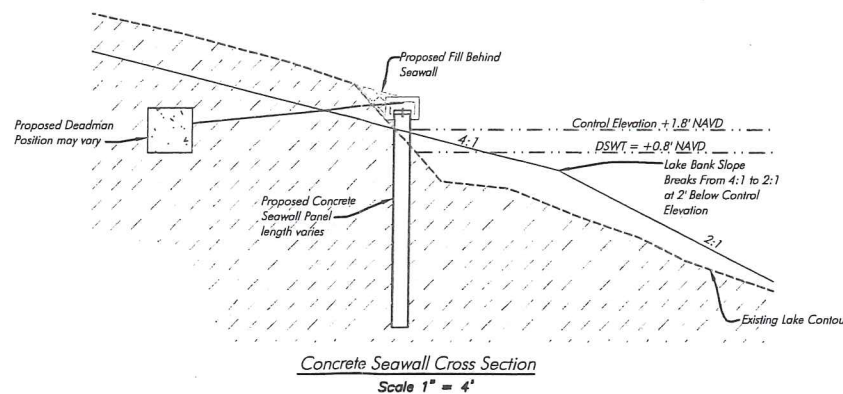
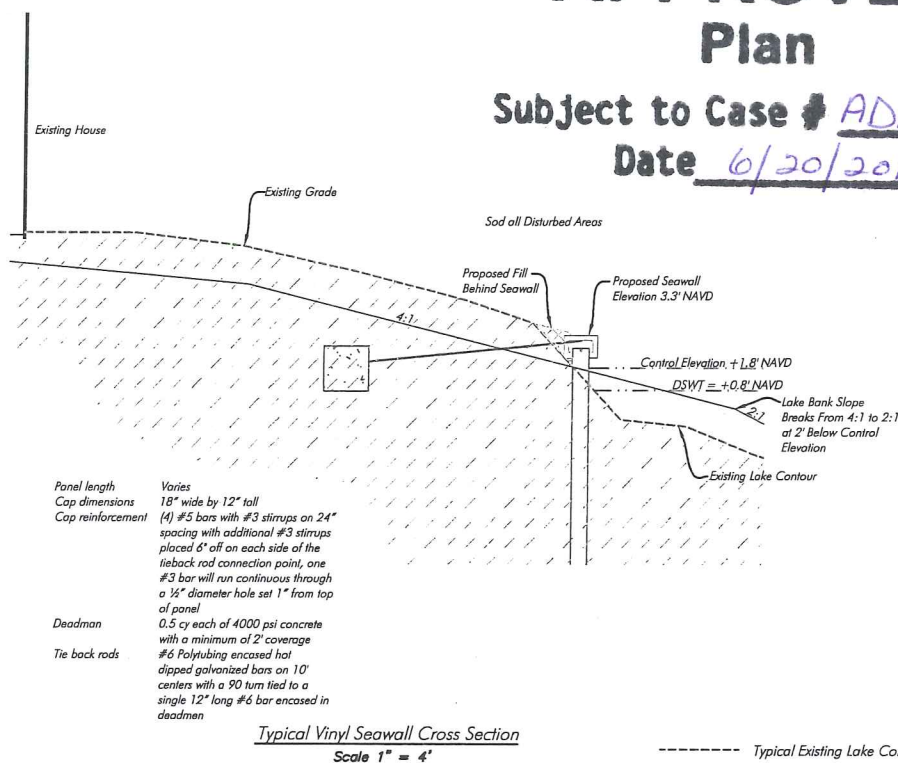
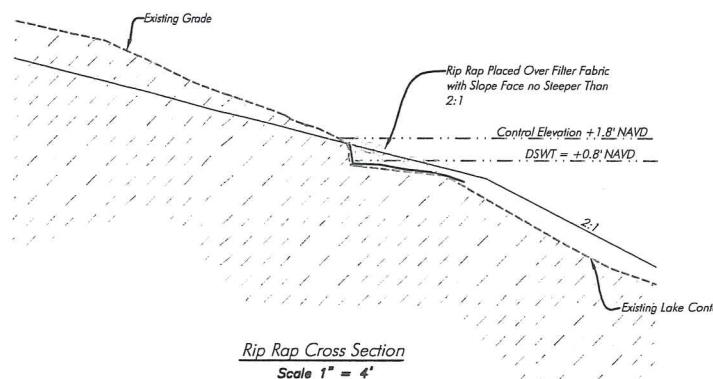
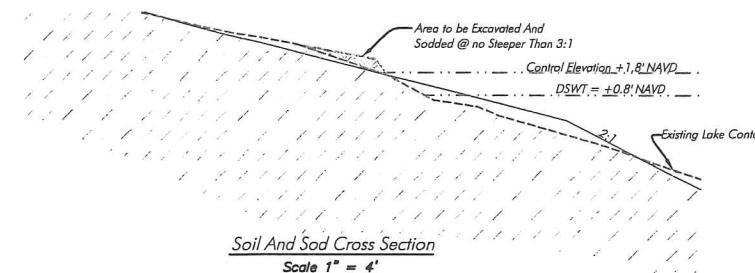
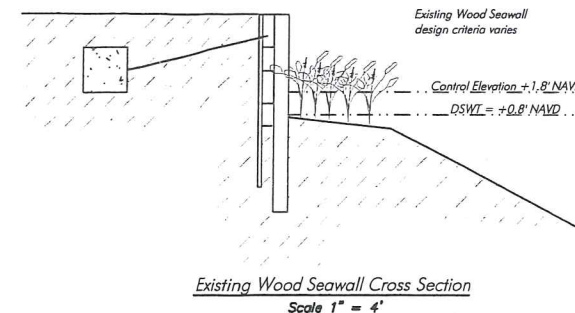
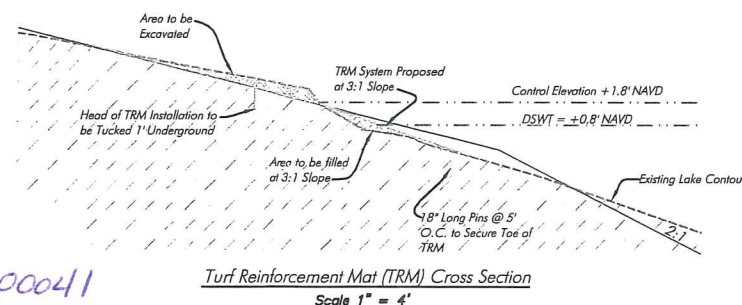
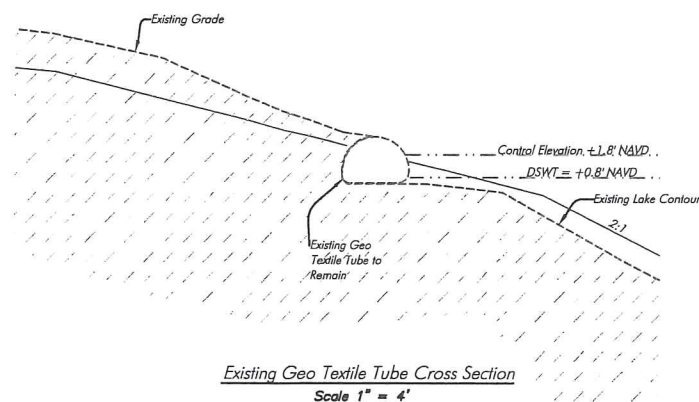
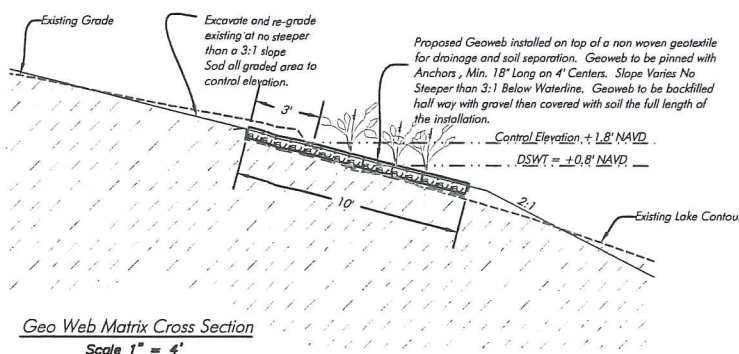
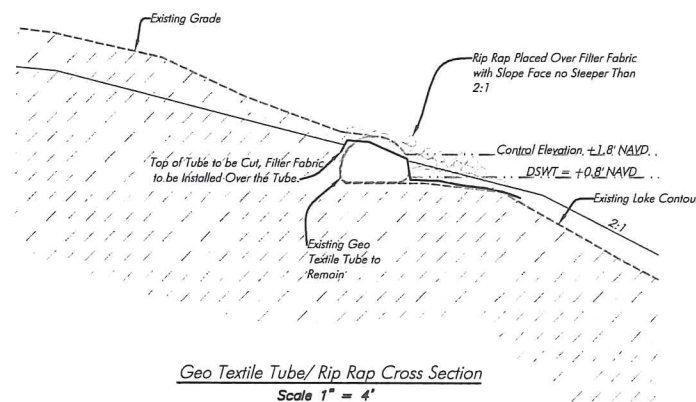
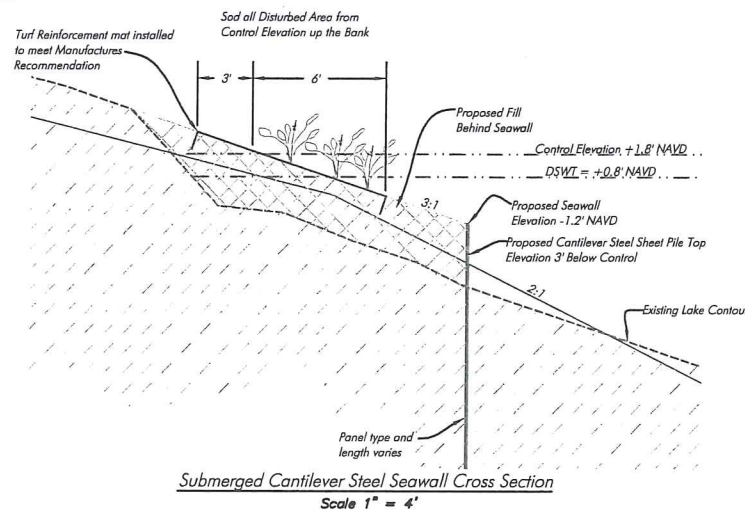
FOR: **Gulf Harbour Master Association**

DATE: 06-08-12	FILE: GulfMaster-2	SCALE: 1" = 300'
PROJECT NO.:	DATUM: NAVD/GRID	SHEET: 1 of 2

PERMIT DRAWINGS, NOT FOR CONSTRUCTION

EXHIBIT D

SECTION: 29, 30, 31
TOWNSHIP: 45 S
RANGE: 24 E



**APPROVED
Plan**

Subject to Case # ADD2012-00041
Date 6/20/2012

Gulf Harbour Yacht and County Club Lake Bank Restoration

Final Plan Amendment


HANS WILSON & ASSOC., INC.
1938 Hill Ave., Ft. Myers, Florida 33901
Tel: 239-334-6870 Fax: 239-334-7810
MARINE and ENVIRONMENTAL CONSULTANTS

Gulf Harbour Master Association Lake Bank Sections

FOR: GULF HARBOUR MASTER ASSOCIATION		
DATE: 06-08-12	FILE: GULFMAS-2	SCALE: Varies
PROJECT NO.: GULFMAS-2	DATUM: NAVD	SHEET: 2 of 2

Note: All elevations reference NAVD.
PERMIT DRAWINGS, NOT FOR CONSTRUCTION

RECEIVED
JUN 11 2012
COMMUNITY DEVELOPMENT

ADD 2012-00041

Lee County 2011 Aerial

0 150 300
SCALE FEET



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**This plan depicts
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stabilization locations**

Gulf Harbour Yacht and County Club Lake Bank Restoration

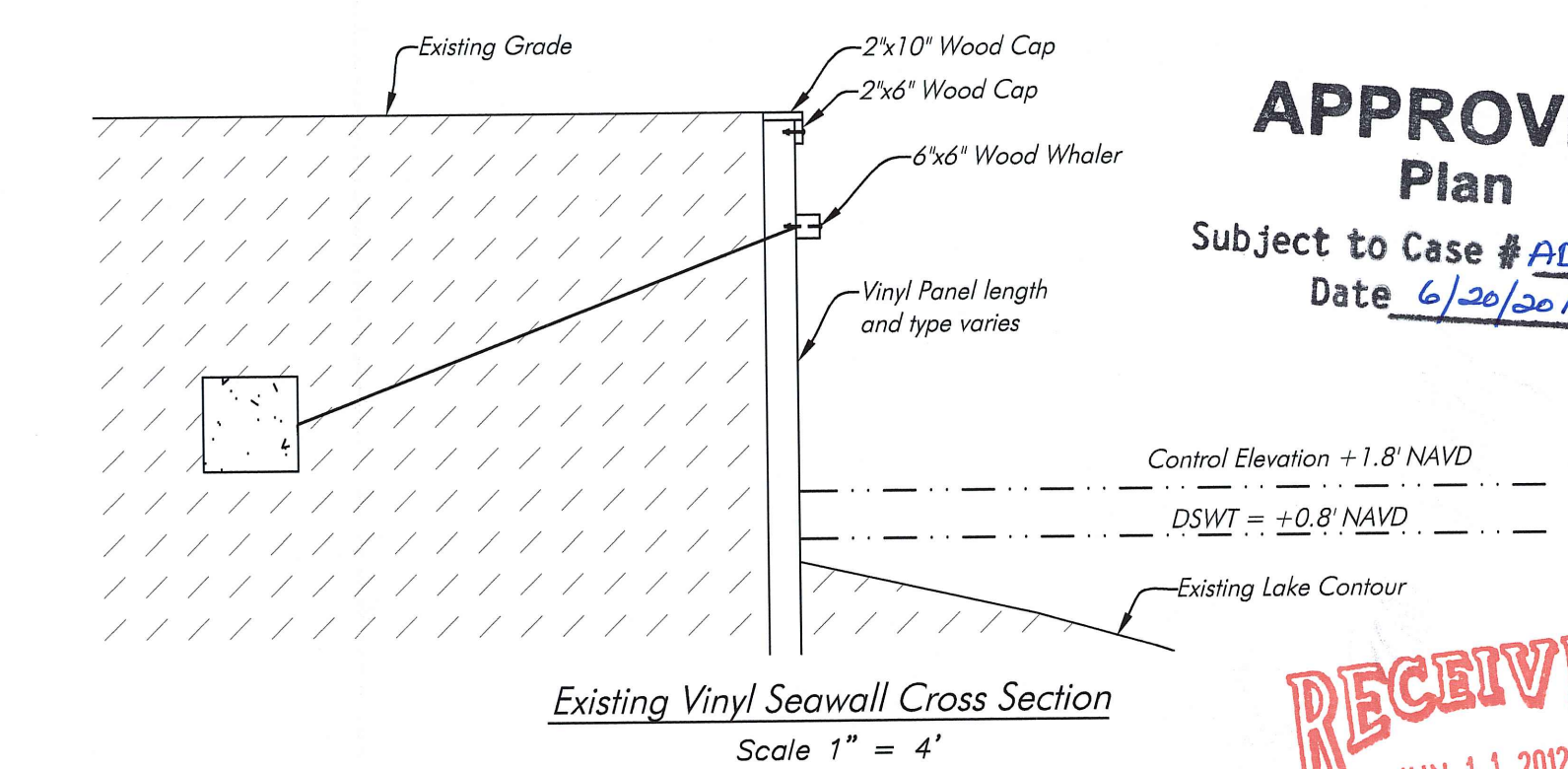
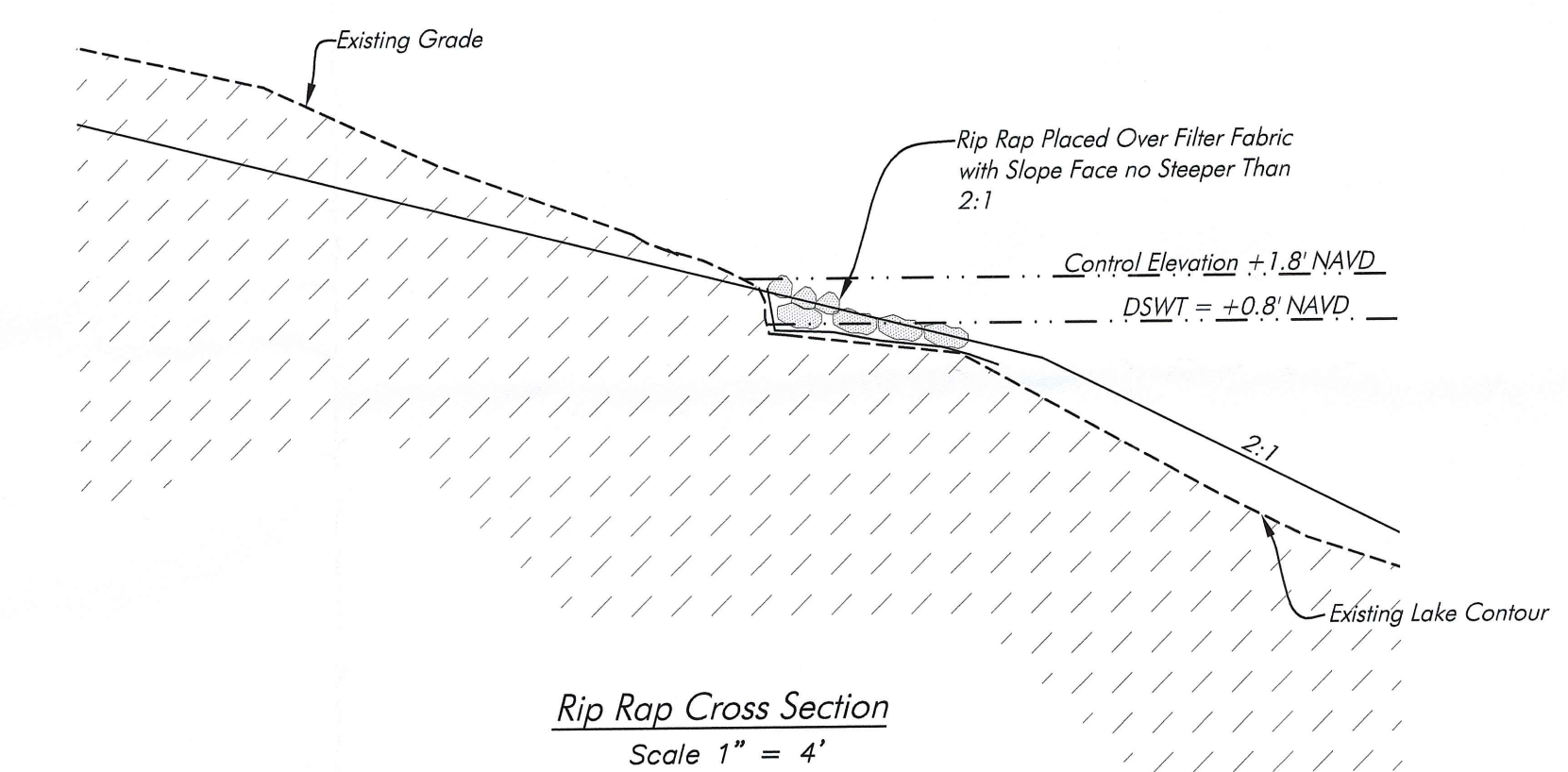
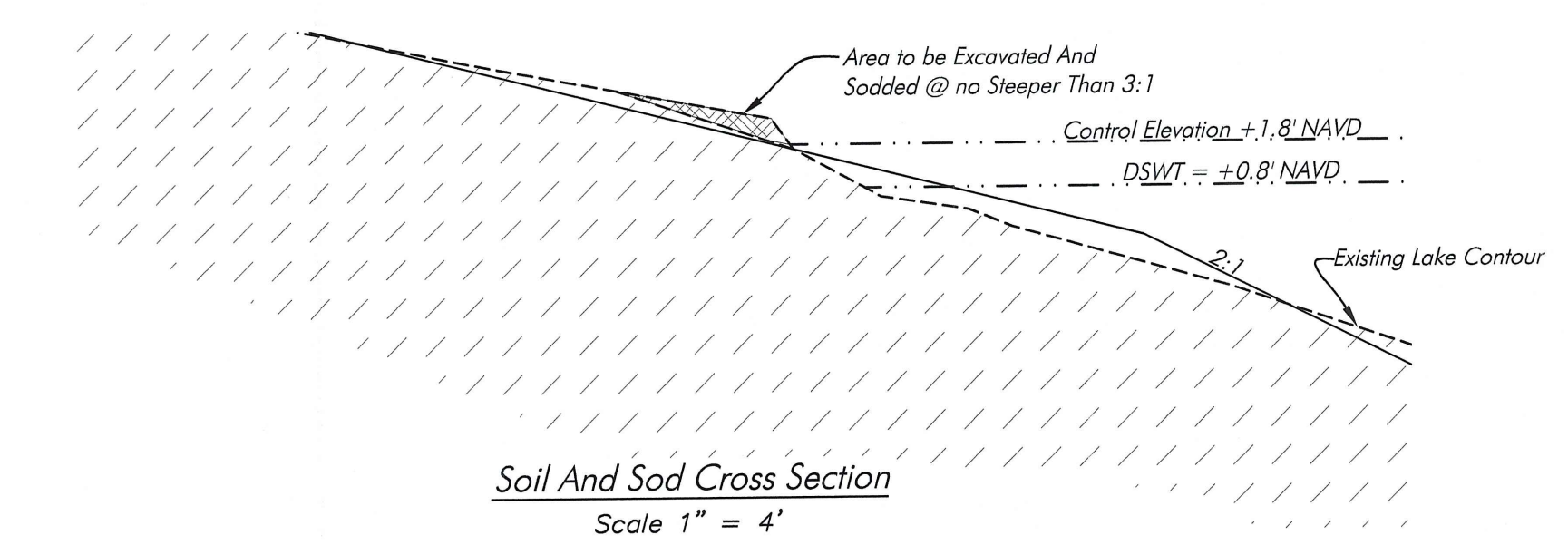
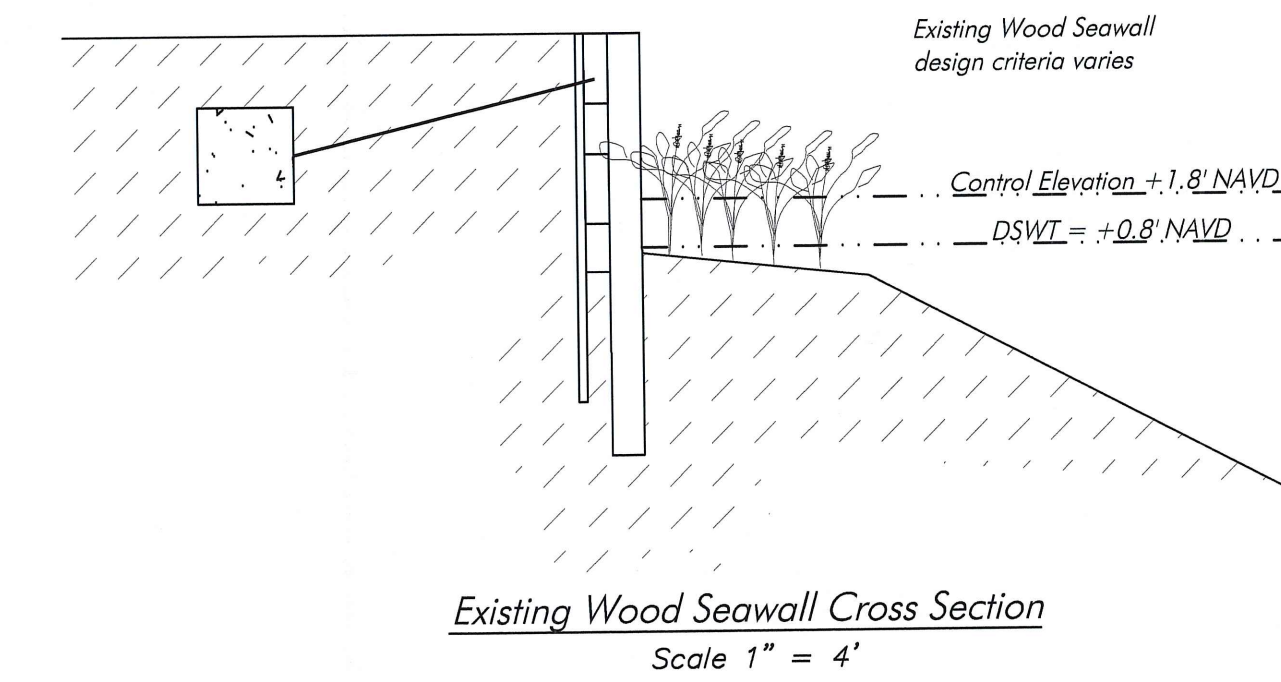
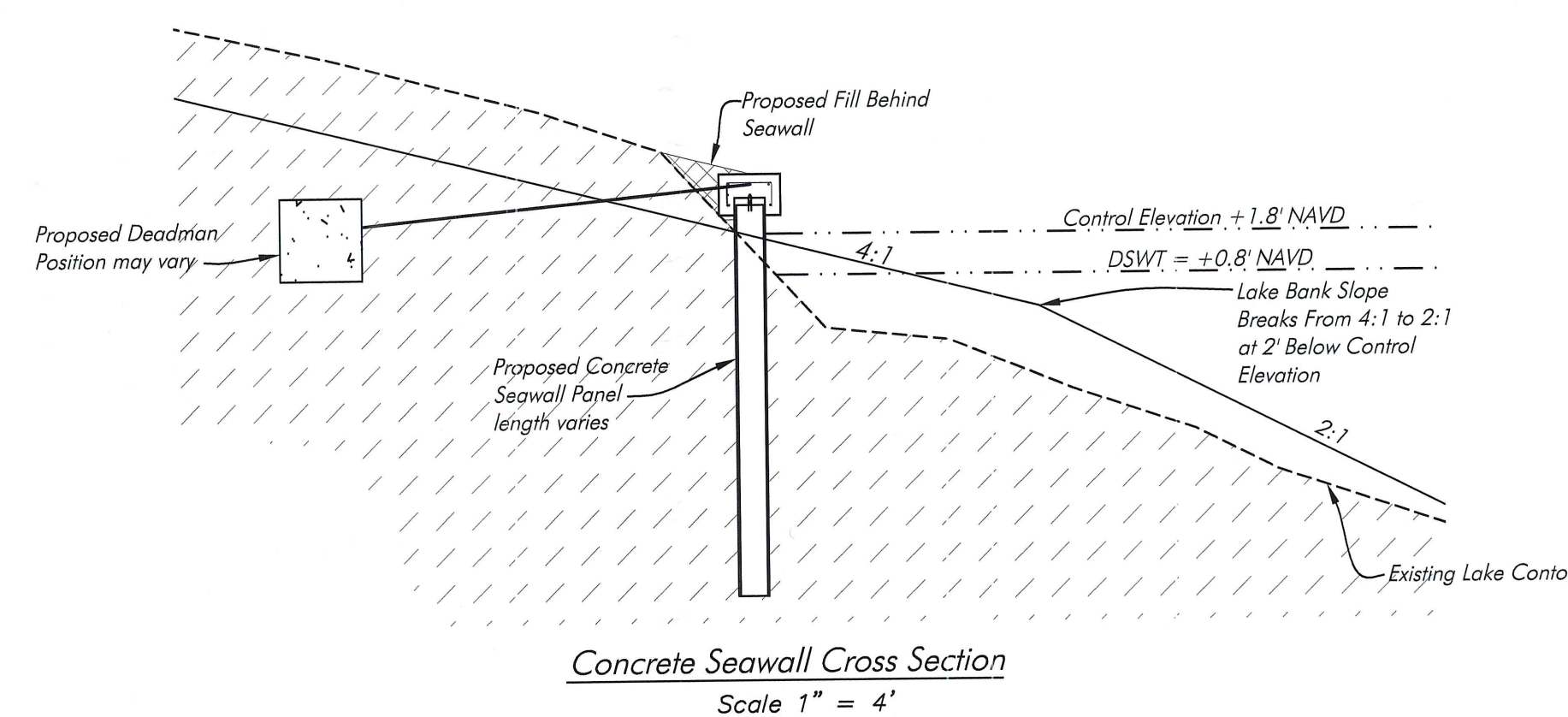
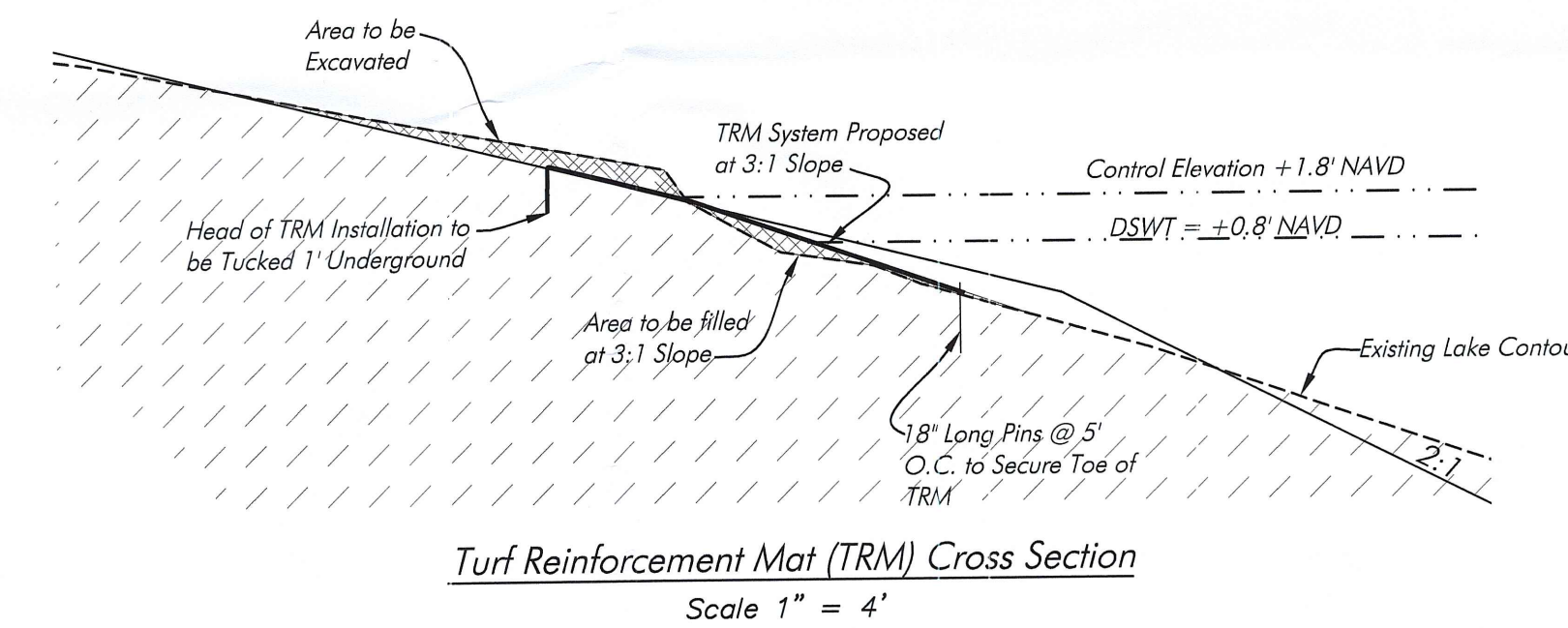
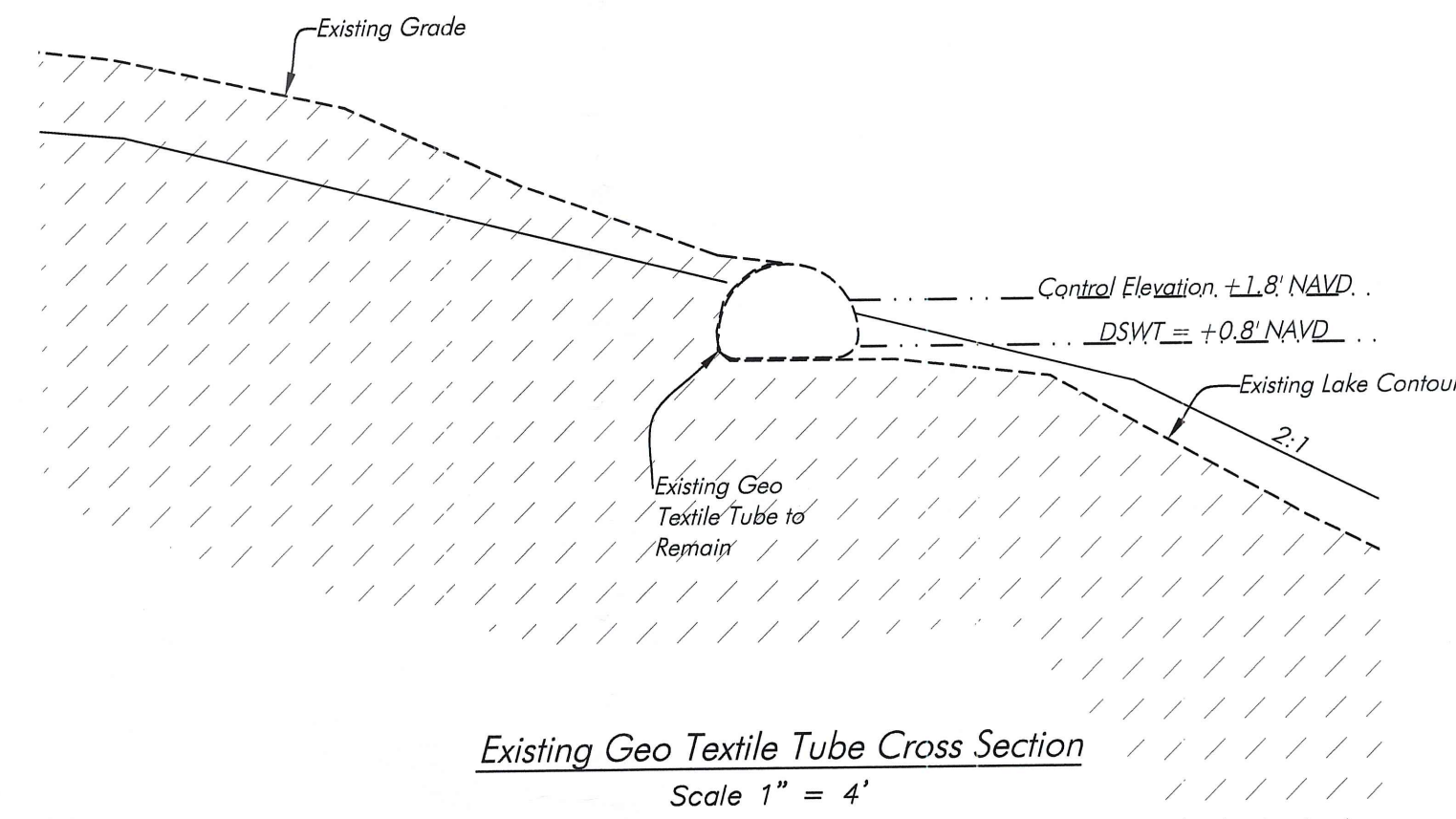
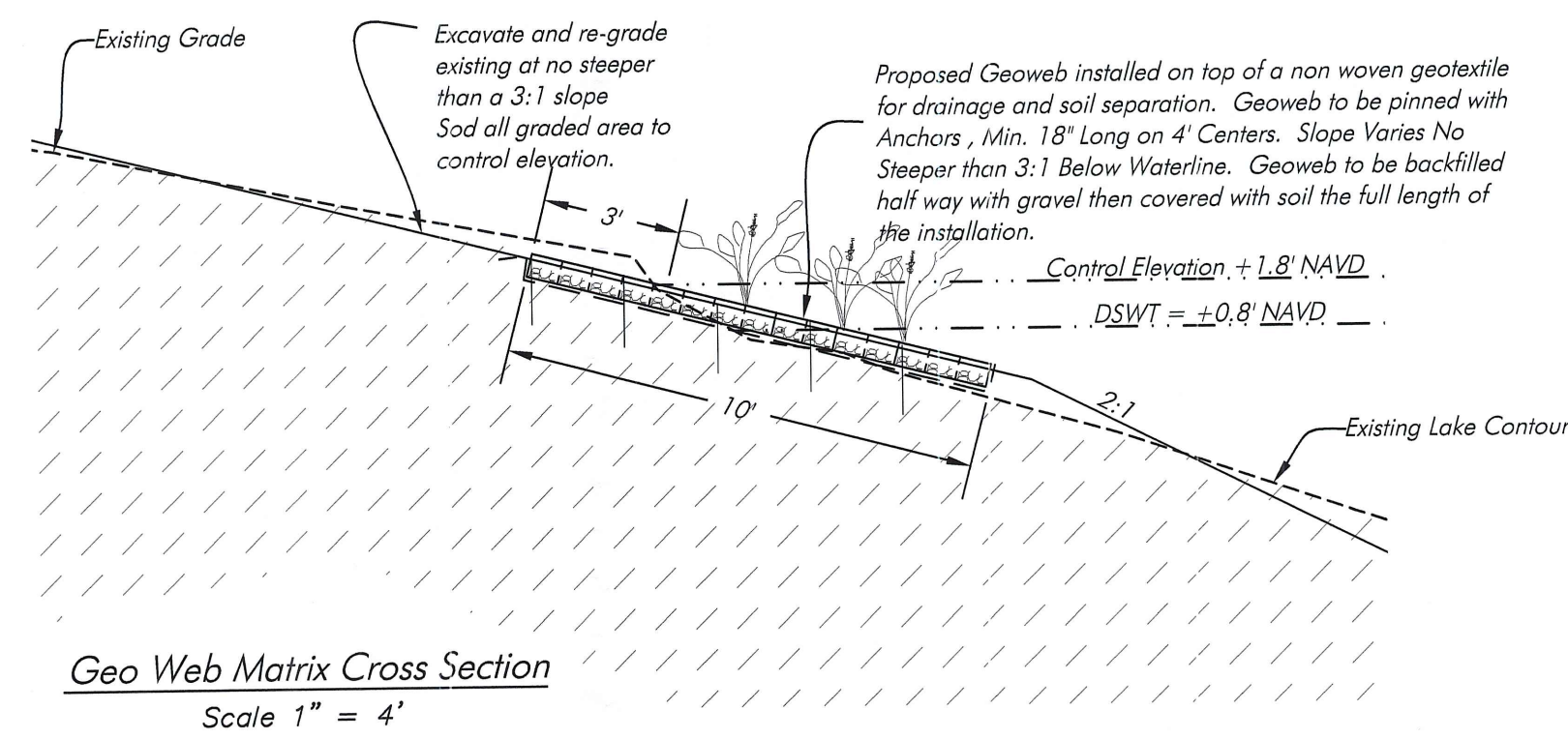
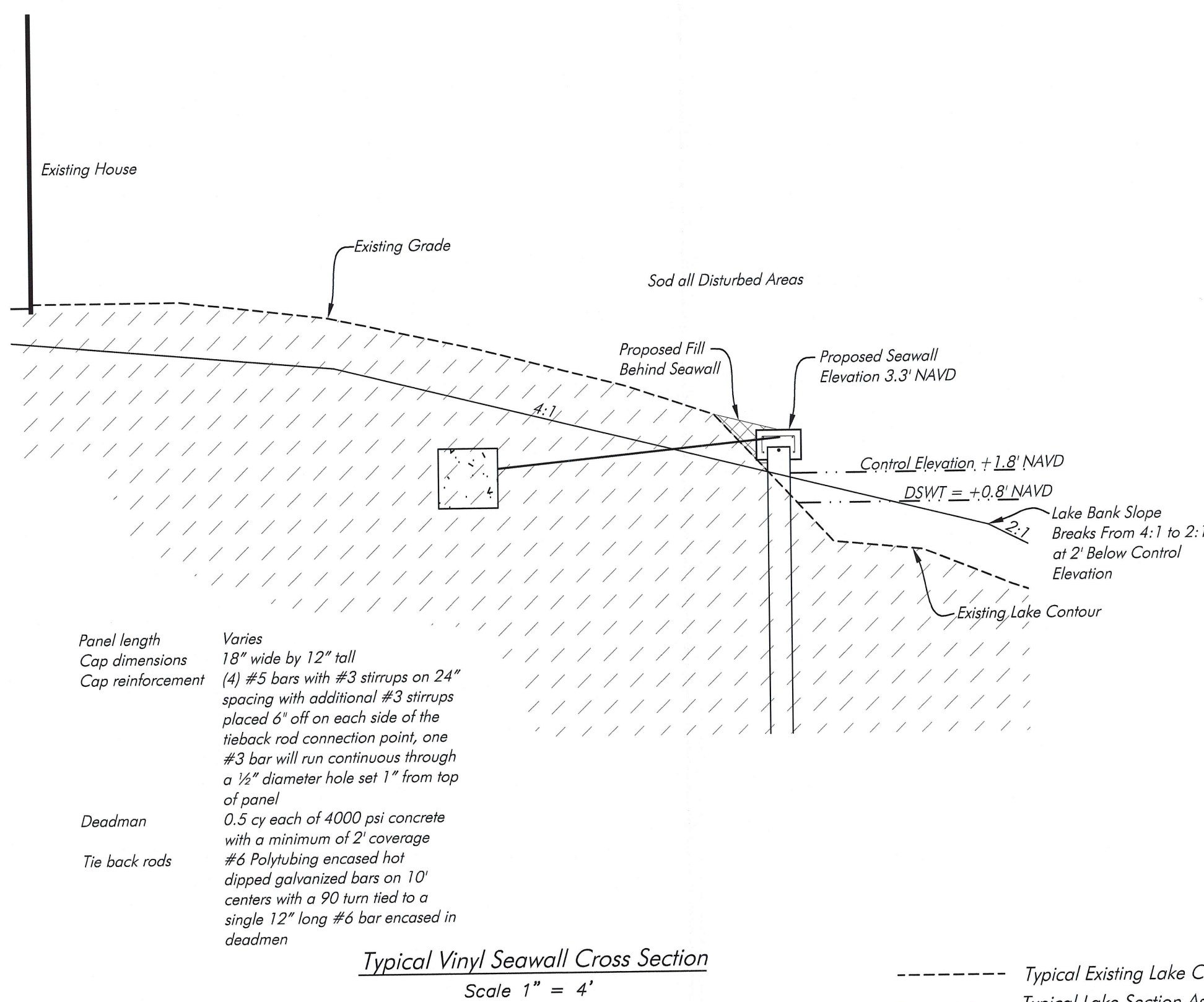
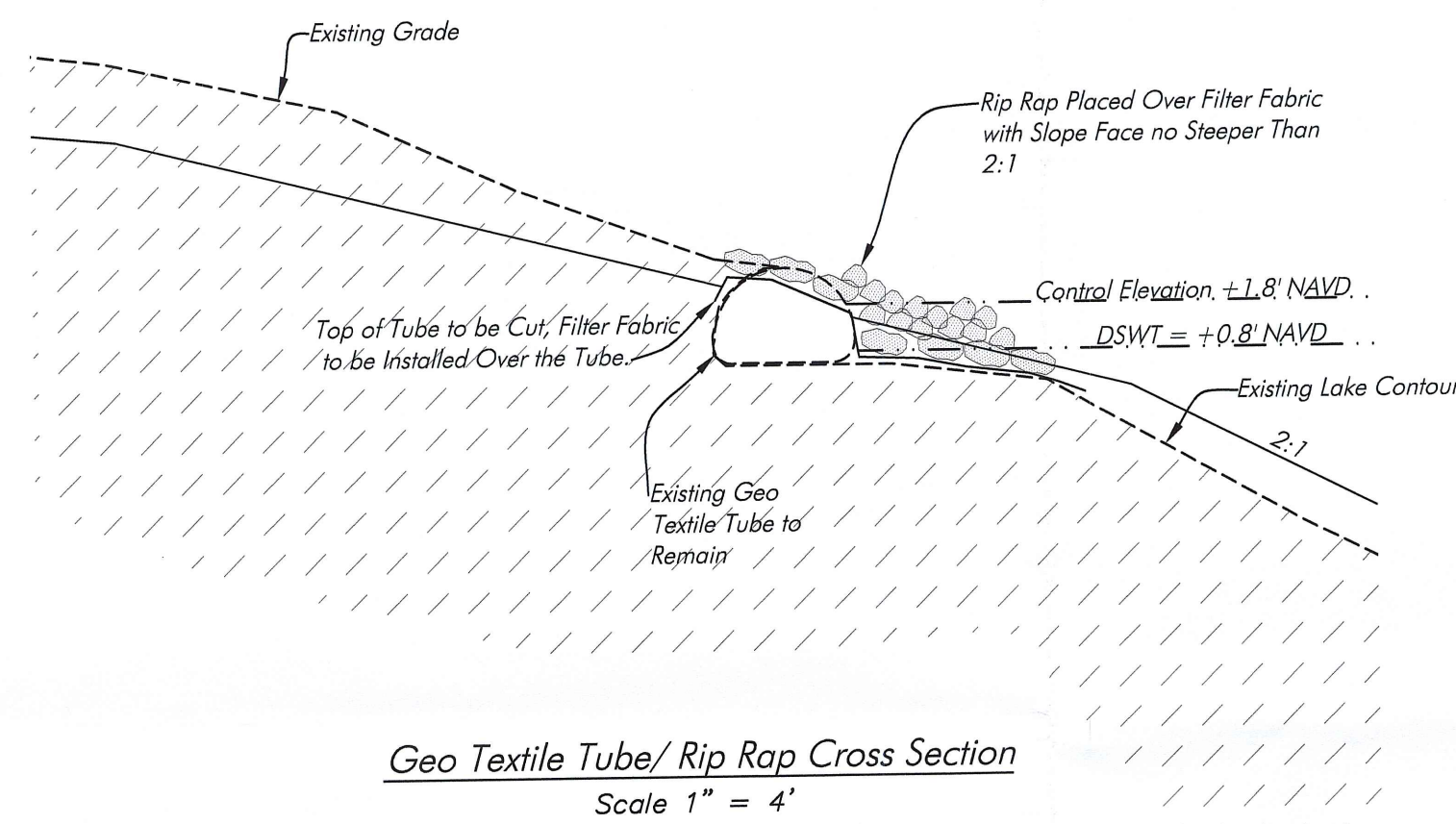
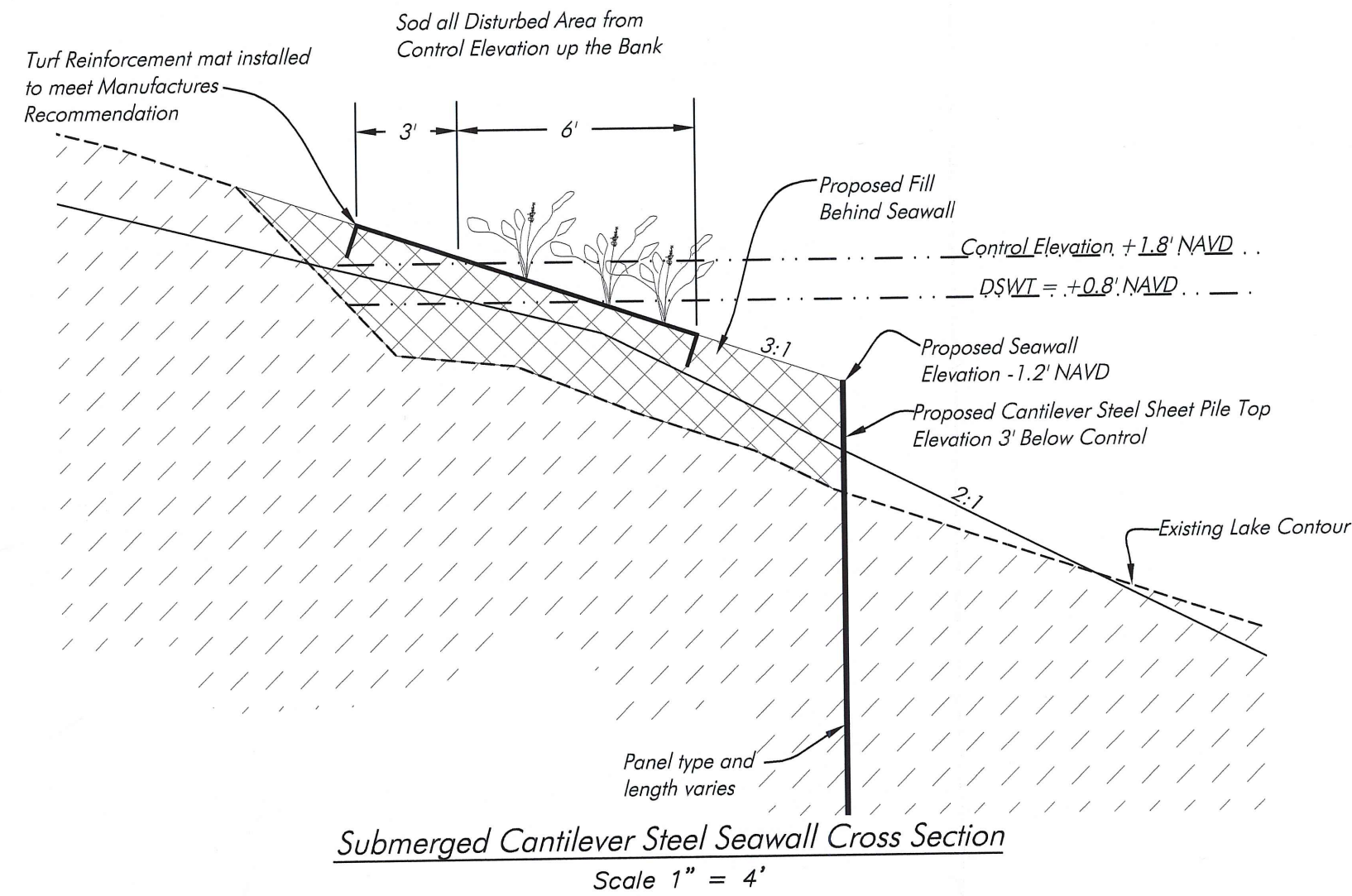
Final Plan Amendment



Lake Bank Stabilization Plan

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DATE: 06-08-12	FILE: GulfMaster-2	SCALE: 1" = 300'
PROJECT NO.:	DATUM: NAVD/GRID	SHEET: 1 of 2

SECTION: 29, 30, 31
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APPROVED Plan
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COMMUNITY DEVELOPMENT
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Gulf Harbour Yacht and County Club Lake Bank Restoration

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June 08, 2012 2:39:15 p.m.
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