


**STAFF DRAFT – SEPTEMBER 1, 2020 – NOT APPROVED BY AGENCY BOARD  
THIS IS A TWO-SIDED DOCUMENT**

 <p><b>NEW YORK</b> STATE OF OPPORTUNITY.</p> <p><b>Adirondack Park Agency</b></p> <p>P.O. Box 99, 1133 NYS Route 86 Ray Brook, New York 12977 Tel: (518) 891-4050 www.apa.ny.gov</p>	<p><b>DRAFT</b> APA Permit and Order <b>2016-0029</b></p>
<p>In the Matter of the Application of</p> <p><b>LS MARINA LLC</b> <b>Applicant</b></p> <p>for a permit pursuant to § 809 of the Adirondack Park Agency Act and 9 NYCRR Part 578 and a variance pursuant to § 806 of the Adirondack Park Agency Act</p>	<p>Date Issued: <b>XXXX</b></p> <p>To the County Clerk: Please index this permit in the grantor index under the following names: <b>1. LS Marina LLC</b></p>

**SUMMARY AND AUTHORIZATION**

LS Marina LLC (applicant) is hereby granted a permit, as conditioned, authorizing activities involving wetlands and a variance, as conditioned, authorizing the construction of new structures associated with a pre-existing marina on lands classified Hamlet on the Adirondack Park Land Use and Development Plan Map in the Town of Harrietstown, Franklin County.

This authorization shall expire unless recorded in the Franklin County Clerk's Office within 60 days of issuance of a signed and notarized permit. The signed and notarized permit and order shall be recorded in the names of all persons listed above and in the names of all owners of record of any portion of the project site on the recordation date.

The regulated wetland activities authorized herein shall not be undertaken or continued unless the project is in existence within five years of the date the permit is recorded in the County Clerk's Office. The Agency will consider the project in existence when construction of one of the open-sided covered structures authorized herein has been completed.

The project shall be undertaken in compliance with all conditions stated herein. Failure to comply with this permit and order is a violation and may subject the applicant, successors, and assigns to civil penalties and other legal proceedings.

This permit and order does not convey any right to trespass upon the lands or interfere with the riparian rights of others in order to undertake the authorized project, nor does it authorize the impairment of any easement, right, title or interest in real or personal property.

Nothing contained in this permit and order shall be construed to satisfy any legal obligations of the applicant to comply with all applicable laws and regulations or to obtain any governmental approval or permit from any entity other than the Agency, whether federal, State, regional, or local.

### **PROJECT SITE**

The project site is improved by a pre-existing marina first established in 1924, currently known as the "Saranac Lake Marina." This pre-existing marina lawfully operated 219 or more boat berths.

In 2013, prior to purchasing the project site, the applicant submitted a Jurisdictional Inquiry Form to the Agency regarding the potential construction of covered structures at the marina. The Agency explained in its responses to both the initial request and a subsequent Request for Declaratory Ruling that the construction of covered structures as proposed would require a variance.

As described below, since 2015, the applicant has removed a total of 26,973± square feet of structures from along the shoreline of Lower Saranac Lake on the project site. Removal of these structures has opened up the shallowest parts of the littoral zone, removing barriers to wildlife movement between the littoral zone of the lake and the riparian area adjacent to the lake. Removal of these structures has also allowed for natural wetland revegetation within a total of 16,131± square feet, which has helped to stabilize the shoreline and to prevent erosion and sedimentation into the lake.

The project site is comprised of two locations, both located in the Town of Harrietstown, Franklin County on lands classified Hamlet on the Adirondack Park Land Use and Development Plan Map.

#### **Main Marina site**

The first location is comprised of a 4.85±-acre property located on NYS Route 3, identified as Tax Map Section 457, Block 3, Parcel 10, and described as a portion of the lands included in a deed from Crescent Bay Holdings LLC to LS Marina, LLC, dated March 12, 2014, and recorded April 8, 2014, in the Franklin County Clerk's Office under Instrument Number 2014-1669. The first location also includes an 8.00±-acre property located entirely within Lower Saranac Lake, as described in a deed from Acme of Saranac, LLC to LS Marina, LLC, dated August 5, 2019, and recorded August 16, 2019, in the Franklin County Clerk's Office under Instrument Number 2019-3801. Together, these properties are referred to herein as the Main Marina site.

The Main Marina site contains 655± feet of shoreline along Lower Saranac Lake. The Main Marina site contains scattered areas of deepwater marsh with a value rating of "3."

As part of the pre-existing marina at the Main Marina site, 102 berths were available within five pre-existing non-conforming boathouses along the shoreline or attached to docks that extended out from the shoreline, and 22 berths were available at moorings.

The Main Marina site is currently improved by a mechanic shop, boat storage building, a storage building located along NYS Route 3, and a single-family dwelling, cottage, and several small cabins located closer to the shoreline. 12,347± square feet of pre-existing structures within the 50-foot shoreline setback area, including all five non-conforming boathouses, have been removed from the Main Marina site since 2015.

The northwestern portion of the Main Marina site contains a large rock that is used for swimming access by the public. The applicant allows the public to use the marina access driveway from NYS Route 3 to enter the site; a spur off of this marina access driveway then leads to the swimming rock.

The Main Marina site is served by a municipal water supply.

Any pre-existing wastewater treatment systems serving the single-family dwelling, cabins, and marina at the Main Marina site are of unknown components. Available evidence indicates that some of the pre-existing wastewater treatment system absorption fields were located within 100 feet of the mean high water mark of the lake.

Properties to the east and northeast of the Main Marina site are residential, improved by single family homes. A tourist accommodation is located across NYS Route 3 to the south of the Main Marina site. The Saranac Lakes Wild Forest adjoins the Main Marina site to the west; the Saranac Lake Islands campground, run by the New York State Department of Environmental Conservation (NYSDEC), is within this wild forest area. The Second Pond Boat Launch Intensive Use Area, which provides a hard surface ramp for public motorboat access to Lower Saranac Lake and is also managed by the NYSDEC, is located approximately two miles to the southwest of the project site on NYS Route 3.

#### **Annex site**

The second location is comprised of a 5.09±-acre property located on Lake Street, identified as Tax Map Section 457, Block 2, Parcel 33.1, and described as a portion of the lands included in a deed from Crescent Bay Holdings LLC to LS Marina, LLC, dated March 12, 2014, and recorded April 8, 2014, in the Franklin County Clerk's Office under Instrument Number 2014-1669. This location is referred to herein as the Annex site.

The Annex site contains 1,335± feet of shoreline along Lower Saranac Lake. The Annex site contains extensive deepwater marsh, shrub swamp, and emergent marsh wetlands with a value rating of "2."

As part of the pre-existing marina at the Annex site, 82 berths were available within four pre-existing non-conforming boathouses along the shoreline, 1 berth was available at a mooring, and at least 12 berths were available in beached locations along the shoreline. All of the boat berths at the Annex site were in wetlands.

The Annex site includes an artificial lagoon that was constructed in the 1950s. Two of the non-conforming pre-existing boathouses were located within wetlands in this lagoon; in addition, boats were beached outside of these structures within the lagoon, and a boat was moored within the lagoon.

The Annex site is currently improved by a boat storage building constructed in 1989. 14,871± square feet of pre-existing structures along the shoreline, including all four non-conforming boathouses, have been removed from the Annex site since 2015.

The Annex site is served by a municipal water supply. There appear to have been no pre-existing on-site wastewater treatment systems at the Annex site.

Properties to the west, south, and southeast of the Annex site are residential, improved by single-family homes. A transfer and storage business is located across NYS Route 3 to the east of the Annex site. A tourist accommodation and a marina are located to the north of the site. The Ampersand Bay Boat Launch, which provides public canoe and kayak access to Lower Saranac Lake and is managed by the NYSDEC, is located to the northwest of the project site.

### **PROJECT DESCRIPTION**

The project as conditionally approved herein involves the installation of new structures involving wetlands and the installation of new structures greater than 100 square feet in size within the shoreline setback area for rehabilitation and expansion of the pre-existing marina.

The marina upgrades involve the construction of a total of 292 boat berths. At the Main Marina site, the proposal involves the construction of 178 berths, with 90 berths located in open-sided covered structures and 88 berths located alongside docks. At the Annex site, the proposal involves the construction of 114 berths, with 20 berths located in open-sided covered structures, 60 berths located in open-sided covered structures with skylights, and 34 berths located alongside docks. All of the proposed structures will be floating.

The project involves the installation of compost toilets at each marina location for use by the public. In addition, a conventional on-site wastewater treatment system that meets all Agency, NYSDEC, and NYS Department of Health (NYSDOH) standards will be constructed for staff use at the Main Marina site. The project also involves the implementation of stormwater and erosion controls including permeable gravel at the Annex site parking area and shrubs and other vegetation to be planted at the Annex site, the use of green and brown colors for all structures, and the use of downward facing lighting with small solar-powered lights along all shoreline structures. Pursuant to its approval of an earlier version of the proposal, the Town of Harrietstown required the applicant to ensure there would be approximately one parking spot for every two boat berths at the project site.

A portion of the proposal involves wetlands and requires a permit from the Agency, and a portion of the proposal requires a variance from the Agency's shoreline restrictions.

## **Wetlands Permit Request**

### *The Main Marina site*

At the Main Marina site, the permit request involves the construction of covered structures over up to 2,230± square feet of wetlands. The applicant recently removed 12,102± square feet of pre-existing non-conforming boathouses along the shoreline at the Main Marina site; within this area, 1,260± square feet is now wetlands.

### *The Annex site*

At the Annex site, the permit request involves the construction of docks and open-sided covered structures with skylights over a total of 25,498± square feet of wetlands. The applicant recently removed a total of 14,871± square feet of pre-existing non-conforming boathouses from within wetlands at the Annex site. All of that 14,871± square feet is revegetating with wetland vegetation.

The proposal involves placing 90 boat berths in wetlands at the Annex site: 60 berths located in open-sided covered structures with skylights and 30 of the berths located alongside docks. The proposal will result in a decrease in the number of boat berths within wetlands at the Annex site from 95 as part of the pre-existing use to the 90 proposed.

Within the lagoon at the Annex site, the permit request also involves the dredging of 5,067± square feet of road sediment from wetlands. 3,402± square feet of this dredged area will be underneath the proposed docks and open-sided covered structures with skylights.

### *Review and Minimization of Impacts*

During the review process, Agency staff and the NYSDEC suggested that the applicant consider numerous alternative plans that would minimize or eliminate the need for a wetland permit.

To minimize potential impacts to wetlands at the Annex site, the applicant removed the cover from proposed Structure 3 as shown on the Project Plans described below, which resulted in a reduction of 8,317± square feet of proposed cover over wetlands. The applicant added skylights to the proposed covers for Structures 1, 2, 4, and 5. In a study titled "Sun Hours Study," prepared by North Woods Engineering PLLC, in consultation with and reviewed by North Country Ecological Services Inc., and last revised August 11, 2020, the applicant asserts that these skylights reduce impacts from shading.

The applicant also proposes to conduct on-going management of Eurasian water-milfoil at both marina locations.

## **Variance Request**

The variance request involves the construction of a total of 577± square feet of structures shoreward of the mean high water mark and 36,368± square feet of structures lakeward of the mean high water mark as part of the rehabilitation and upgrading of the pre-existing marina.

*The Main Marina site*

At the Main Marina site, the variance request involves the construction of a total of 577± square feet of structures to allow for the upgrading of a boat launch shoreward of the mean high water mark, and the construction of 20,773± square feet of open-sided covered structures, 14.5± feet in height, lakeward of the mean high water mark.

In total, the applicant proposes to construct 34,162± square feet of new shoreline structures at the Main Marina site. The applicant has removed 12,812± square feet of pre-existing shoreline structures at the Main Marina site.

*The Annex site*

At the Annex site, the variance request involves the construction of 15,018± square feet of open-sided covered structures with skylights, 14.5± feet in height, lakeward of the mean high water mark.

In total, the applicant proposes to construct 29,889± square feet of new shoreline structures at the Annex site. The applicant has removed 14,871± square feet of pre-existing shoreline structures at the Annex site.

*Review and Minimization of Impacts*

During the review process, Agency staff, the NYSDEC, and nearby landowners suggested that the applicant consider numerous alternative plans that would minimize or eliminate the need for a variance.

To minimize the variance request at the Main Marina site, the applicant eliminated retaining walls, walkways, and expansions of the pre-existing cabins from the proposal to avoid the need for a variance for any structure shoreward of the mean high water mark other than the upgraded boat launch. The applicant also eliminated proposed coverings from structures lakeward of the mean high water mark, reducing the footprint of the proposed variance structures by 39,557± square feet.

To minimize the variance request at the Annex site, the applicant eliminated retaining walls and walkways from the proposal to avoid the need for a variance for any structure shoreward of the mean high water mark. The applicant also eliminated proposed coverings from structures lakeward of the mean high water mark, reducing the footprint of the proposed variance structures by 16,533± square feet.

**Final Maps, Plans, and Reports**

The project is shown on the following maps, plans, and reports:

- A set of 30 plan sheets titled, "LS Marina, LLC, Saranac Lake Marina," prepared by North Woods Engineering, LLC, dated May 1, 2020, and last updated August 27, 2020 (collectively the Project Plans). These plans include:
  - Sheet C10, "Main Marina Overall Site Plan," last updated July 16, 2020;
  - Sheet C13, "Main Marina Upper Site Prep, Erosion and Sediment Control Plan," last updated July 16, 2020;
  - Sheet C14, "Main Marina Lower Site Prep, Erosion and Sediment Control Plan," last updated May 1, 2020;

- Sheet C15, "Main Marina Upper Grading and Drainage Plan," last updated August 12, 2020;
  - Sheet C16, "Main Marina Lower Grading and Drainage Plan," last updated May 1, 2020;
  - Sheet C18, "Main Marina Boat Launch Plan," last updated May 1, 2020;
  - Sheet C19, "Main Marina Grading Plan Boat Launch," last updated May 1, 2020;
  - Sheet C20, "Annex Marina Overall Site Plan," last updated July 16, 2020;
  - Sheet C21, "Annex Marina Site Prep, Erosion and Sediment Control Plan," last updated July 16, 2020;
  - Sheet C22, "Annex Marina Planting Plan," last updated July 16, 2020 (Annex Planting Plan);
  - Sheet C40, "Main Marina Aquatic Vegetation Diagram," last updated August 27, 2020; and
  - Sheet C41, "Annex Marina Aquatic Vegetation Diagram," last updated July 31, 2020.
- A report titled, "Engineering Report Water and Sanitary Sewer for Crescent Bay Marina," prepared by The LA Group, P.C., dated July 2014, and last updated June 10, 2016 (Engineering Report).
  - A report titled, "Stormwater Pollution and Prevention Plan (SWPPP)," prepared by North Woods Engineering, LLC, and dated May 21, 2020 (SWPPP).
  - A report titled, "Stormwater Report for the Annex Parcel," prepared by The LA Group, P.C., dated March 21, 2017 (Annex Stormwater Report).

Reduced-scale copies of Sheets C10, C20, C40, and C41 are attached as a part of this permit for easy reference. The original, full-scale maps and plans described herein are the official plans for the project, with copies available upon request from Adirondack Park Agency headquarters in Ray Brook, New York.

### **APPLICABLE LAWS**

Pursuant to Section 809(2)(a) of the Adirondack Park Agency Act and Adirondack Park Agency regulations at 9 NYCRR Part 578, a permit is required from the Adirondack Park Agency prior to any deposit of fill in or dredging or excavating of a wetland in the Adirondack Park. An Agency permit is also required for the undertaking of any activity that will result in the substantial impairment of the functions served by and the benefits derived from a wetland in the Park.

Section 806(1)(a)(2) of the APA Act establishes a minimum shoreline setback of 50 feet from the mean high water mark of Lower Saranac Lake within a Hamlet land use area for all accessory structures and principal buildings greater than 100 square feet in size. Pursuant to § 575.4(b) of Agency regulations, individual structures that are attached to each other are considered a single structure when implementing these setback requirements. Pursuant to § 575.5(b) of Agency regulations, a variance is required for the replacement of any existing structure that results in an expansion in any direction, except minor rearward and height expansions. The applicant requested a variance from these requirements pursuant to § 806(3)(a) of the APA Act.

**CONDITIONS**

**THE PROJECT IS APPROVED SUBJECT TO THE FOLLOWING CONDITIONS:**

1. The project shall not be undertaken until this permit and order has been recorded in the Franklin County Clerk's Office.
2. The variance authorized herein shall expire five years from the date this permit and order is recorded in the Franklin County Clerk's office, unless construction of one of the open-sided covered structures authorized herein has been completed by that date or written authorization has been obtained from the Agency extending the deadline for the project.
3. This permit and order is binding on the applicant, all present and future owners or lessees of the project site, and all persons undertaking all or a portion of the project, for as long as the authorized structures remain on the site. Copies of this permit and order and the Project Plans shall be furnished by the applicant to all subsequent owners or lessees of the project site prior to sale or lease, and by the applicant and/or any subsequent owner or lessee to all persons undertaking any development activities authorized herein.
4. In addition to complying with all terms and conditions of this permit and order, all future activities on the project site shall be undertaken in compliance with the requirements of New York State's Adirondack Park Agency Act, Freshwater Wetlands Act, and the Adirondack Park Agency's implementing regulations [9 NYCRR §§ 570-588].
5. All deeds conveying all or a portion of the lands subject to this permit and order shall contain references to this permit as follows: "The lands conveyed are subject to Adirondack Park Agency Permit and Order 2016-0029, issued XXXX, the conditions of which are binding upon the heirs, successors and assigns of the grantors and all subsequent grantees."

**Structure Construction**

6. This permit and order authorizes the construction of structures requiring a permit and/or order on the project site in the locations shown and as depicted on the Project Plans. Any change to the location, dimensions, or other aspect of these structures shall require prior written Agency authorization. Prior written Agency authorization shall also be required for the addition of any new boat berths on the project site, including any areas for beaching or mooring boats.

**Wastewater Treatment**

7. Within six months of installation of any one of the structures authorized herein at the Main Marina site, all on-site wastewater treatment systems designed for the Main Marina site, including composting toilets, shall be constructed in conformance with the Engineering Plan and the Project Plans. Construction of these systems shall be supervised by a New York State design professional (licensed engineer or registered architect). Within 30 days of complete system installation and prior to its



utilization, the design professional shall provide written certification to the Agency that each system was built in compliance with the approved plans.

Within six months of installation of any one of the structures authorized herein at the Annex site, all composting toilets shall be constructed in conformance with the Engineering Plan and the Project Plans. Construction of these systems shall be supervised by a New York State design professional (licensed engineer or registered architect). Within 30 days of complete system installation and prior to its utilization, the design professional shall provide written certification to the Agency that each system was built in compliance with the approved plans.

Installation of any on-site wastewater treatment system other than as authorized herein or modification of any system authorized herein shall require prior written authorization from the Agency.

Other than non-leaching sanitary privies, there shall be no use of any existing wastewater treatment facilities except as described in the Engineering Report and Project Plans without prior written Agency approval.

#### **Stormwater/Erosion and Sediment Control**

8. The project shall be undertaken in compliance with the SWPPP, the Annex Stormwater Report, and the Project Plans, including the Annex Planting Plan.

#### **Buoys/Navigation Channels**

9. Prior to any use by the public of any boat berth in any authorized structure at the Main Marina site, all buoys and other markers shall be installed as depicted and described on the Project Plans for the Main Marina site.
10. Prior to any use by the public of any boat berth in any authorized structure at the Annex site, all buoys and other markers shall be installed as depicted and described on the Project Plans for the Annex site.

#### **Dredging**

11. All dredging and associated activities, including waste disposal, shall occur in compliance with the Project Plans. Any change to the Project Plans shall require prior written authorization from the Agency.

#### **Invasive Species**

12. When brought from off-site, all equipment, including but not limited to trucks, excavators, tractors, etc., and hand excavation tools such as shovels, rakes, and picks, to be used on the project site shall be clean and free of soil, mud, or other similar material. If washed on the project site, equipment shall be washed in one location to prevent the distribution of propagules among different wash sites. All construction equipment and vehicles operating in areas that may contain existing invasive species shall be thoroughly cleaned prior to moving to other areas.

13. Prior to any use by the public of any boat berth in any authorized structure at the Main Marina site, written approval shall be obtained from the Agency for a plan for ongoing removal of invasive species at the Main Marina site.
14. Prior to any use by the public of any boat berth in any authorized structure at the Annex site, written approval shall be obtained from the Agency for a plan for ongoing removal of invasive species at the Annex site.

### **Plantings**

15. All trees and shrubs depicted on the Annex Planting Plan shall be planted no later than the first spring or fall planting season after final grading related to the development authorized on the Annex project site. Trees and shrubs that do not survive shall be replaced annually until established in a healthy growing condition.

### **Upland Vegetative Cutting**

16. Within 50 feet of the mean high water mark of Lower Saranac Lake, no trees or shrubs may be cut or removed on the project site, except for the removal of dead or diseased vegetation, rotten or damaged trees, or any other vegetation that presents a safety or health hazard.

### **Removal of Debris from Below the Mean High Water Mark**

17. There shall be no removal of coarse woody debris from below the mean high water mark on the project site, except for the removal of coarse woody debris that presents a navigation hazard.

### **Structure Color**

18. The roofs of all open-sided covered structures authorized herein shall be maintained in a dark green color, and the poles of all open-sided covered structures authorized herein shall be maintained in a brown color.

### **Outdoor Lighting**

19. Upon construction of any authorized structure at the Main Marina site, there shall be no lighting below the mean high water mark except solar "Dek Dot"-style lights and downward facing lights beneath the structure covers. All exterior lighting above the mean high water mark at the Main Marina site shall comply with the locations and descriptions shown on the Project Plans.

Upon construction of any authorized structure at the Annex site, there shall be no lighting below the mean high water mark except solar "Dek Dot"-style lights and downward facing lights beneath the structure covers. There shall be no exterior lighting above the mean high water mark at the Annex site.

Any change to these lighting specifications shall require prior written authorization from the Agency.

### **Signs**

20. All new signs associated with the marina on the project site shall comply with the Agency's "Standards for Signs Associated with Projects" [9 NYCRR Part 570, Appendix Q-3].

### **DISCUSSION**

The Agency may grant a variance where there are practical difficulties in carrying out the restrictions set forth in Section 806(1)(a)(2) of the APA Act. The Agency has considered the standards and factors set forth in 9 NYCRR § 576.1(b)-(c).

#### **§ 576.1(b): Whether the adverse consequences to the applicant resulting from denial are greater than the public purpose sought to be served by the restriction.**

The adverse consequence to the applicant from denial of the variance would be that the proposed covered structures and improved boat launch could not be constructed.

The public purposes of the shoreline restrictions are to protect water quality and the qualities of Adirondack shorelines.

The water quality of Lower Saranac Lake has been improved since 2015 by the removal of the 27,218± square feet of pre-existing non-conforming covered and enclosed structures along the shoreline of the project site, as these structures served as barriers to wildlife movement between the littoral zone of the lake and the riparian area adjacent to the lake. Removal of the pre-existing structures has also allowed for 16,131± square feet of wetland vegetation to grow, which has helped to stabilize the shoreline and to prevent erosion and sedimentation into the lake.

While there is a large footprint of proposed structures requiring a variance below the mean high water mark, there is no additional impact to water quality resulting from stormwater runoff from covered boat berths than from docks. Therefore, the proposed covered structures will not adversely impact water quality, while reconstruction of the pre-existing shoreline structures would have adverse effects.

In addition, the water quality of Lower Saranac Lake will be enhanced by the proposal through implementation of the SWPPP and the Annex Stormwater Report. The project plans have been designed to treat upland surface runoff and protect and enhance water quality.

Finally, the water quality of Lower Saranac Lake will be enhanced by the proposal through replacement of unknown wastewater treatment systems, some of which were likely located within 100 feet of the mean high water mark, with composting toilets for use by the public and a new on-site conventional wastewater treatment system for marina staff that meets all Agency, NYSDEC, and NYSDOH standards.

The quality of the shoreline of Crescent Bay and Ampersand Bay on Lower Saranac Lake will be impacted by the installation of the open-sided covered structures. From within these bays and from across the lake, the structures will, in many places, be more visible than the pre-existing marina structures. From some angles in and across from Crescent Bay, the structures may provide an aesthetic benefit compared to the existing collection of moored boats. In addition, maintenance of the structures in green and brown colors, the required plantings at the Annex site, and the revegetation of 16,131± square feet of wetland area will help to ameliorate the visual impacts from the proposal.

The overall number of boats on Lower Saranac Lake is determined by the number of available docks and other boat slips on Hamlet and other privately owned lands on the lake, along with the number of boats that access the lake through the Second Pond and Ampersand Bay boat launches, as well as other boat access points available throughout the Saranac Chain of Lakes. The creation of up to 73 additional boat slips available at the marina may create impacts to adjoining and nearby landowners on Lower Saranac Lake. However, NYSDEC State Land management actions that impact parking along NYS Route 3 for the Second Pond Boat launch and the staffing of the locks between Lower Saranac Lake and Middle Saranac Lake directly affect the number of boats on Lower Saranac Lake. Overall use and boat capacity of the Saranac Chain of Lakes cannot be regulated through private businesses and infrastructure in Hamlet areas.

If the variance were denied, the applicant or a future owner could reconstruct the 27,218± square feet of pre-existing non-conforming covered and enclosed structures along the shoreline that have been removed since 2015. As described above, replacement of these structures would worsen impacts to the littoral zone and associated wetlands and to water quality. Replacement of these structures would also increase the number of boat slips in wetlands at the Annex site from 90 to 95, resulting in an increase in turbidity within the wetland areas.

If the variance were denied, the applicant or a future owner could also construct additional docks outside of wetlands at both marina locations without the need for any Agency permit or variance. Accordingly, more than 73 docks could be added to the project site without any Agency review.

Although the variance request involves the construction of a total of 36,368± square feet of footprint of shoreline structures, with up to 11,597± square feet of wetland impacts, both water quality and the quality of the shoreline of Lower Saranac Lake would be adversely affected more from denial of the variance and resulting reconstruction of the pre-existing marina structures than from the granting of the variance.

**§ 576.1(c)(1): Whether the application requests the minimum relief necessary.**

To minimize the variance request at the Main Marina site, the applicant eliminated retaining walls, walkways, and expansions of the pre-existing cabins from the proposal to avoid the need for a variance for any structure shoreward of the mean high water mark other than the upgraded boat launch. The applicant also eliminated proposed coverings from structures lakeward of the mean high water mark, reducing the footprint of the proposed variance structures by 39,557± square feet.

To minimize the variance request at the Annex site, the applicant eliminated retaining walls and walkways from the proposal to avoid the need for a variance for any structure shoreward of the mean high water mark. The applicant also eliminated proposed coverings from structures lakeward of the mean high water mark, reducing the footprint of the proposed variance structures by 16,533± square feet.

**§ 576.1(c)(2): Whether granting the variance will create a substantial detriment to adjoining or nearby landowners.**

The project site is located in a Hamlet land use area, and is therefore designated under the APA Act as being an area “intended to accommodate a large portion of the necessary and natural expansion of the Park’s housing, commercial, and industrial activities.”

Views along the shoreline of Crescent Bay and Ampersand Bay on Lower Saranac Lake will be impacted by the installation of the open-sided covered structures. From within these bays and from across the lake, the structures will, in many places, be more visible than the pre-existing marina structures. From some angles in and across from Crescent Bay, the structures may provide an aesthetic benefit compared to the existing collection of moored boats. In addition, maintenance of the structures in green and brown colors, the required plantings at the Annex site, the location of the Annex site in close proximity to another existing marina, and the revegetation of 16,131± square feet of wetland area will help to ameliorate the visual impacts from the proposal.

The water quality of Lower Saranac Lake will be enhanced by the proposal through implementation of the SWPPP and the Annex Stormwater Report. Water quality will also be enhanced by the proposal through replacement of unknown wastewater treatment systems, some of which were likely located within 100 feet of the mean high water mark, with composting toilets for use by the public and a new on-site conventional wastewater treatment system for marina staff that meets all Agency, NYSDEC, and NYSDOH standards.

The overall number of boats on Lower Saranac Lake is determined by the number of available docks and other boat slips on Hamlet and other privately owned lands on the lake, along with the number of boats that access the lake through the Second Pond and Ampersand Bay boat launches, as well as other boat access points available throughout the Saranac Chain of Lakes. The creation of up to 73 additional boat slips available at the marina may create impacts to adjoining and nearby landowners on Lower Saranac Lake. However, NYSDEC State Land management actions that impact parking along NYS Route 3 for the Second Pond Boat launch and the staffing of the locks between Lower Saranac Lake and Middle Saranac Lake directly affect the number of boats on Lower Saranac Lake. Overall use and boat capacity of the Saranac Chain of Lakes cannot be regulated through private businesses and infrastructure in Hamlet areas.

The creation of 54 additional boat slips at the Main Marina site will likely result in little impact to traffic in the area, as NYS Route 3 is already heavily traveled, with many cars accessing the Main Marina property from NYS Route 3 for use of the existing marina and the publicly-available swimming rock. The creation of up to 19 additional boat slips at the Annex site may increase traffic along Lake Street in Saranac Lake.

However, trips with trailers occur only twice each year per slip, as boats are left at the site throughout the boating season.

Parking will be accommodated throughout the project site through the establishment of approximately one space for every two boat berths as required by the Town of Harrietstown.

**§ 576.1(c)(3): Whether the difficulty can be obviated by a feasible method other than a variance.**

No variance would be required if the applicant reconstructed the 27,218± square feet of pre-existing non-conforming covered and enclosed structures along the shoreline that have been removed since 2015. In addition, the applicant could construct additional docks outside of wetlands without the need for any Agency permit or variance. However, both of these alternatives would result in worse impacts to water quality, wetlands, and the quality of the shoreline of Lower Saranac Lake.

**§ 576.1(c)(4): The manner in which the difficulty arose.**

Prior to purchasing the property, the applicant received written notification from the Agency that the construction of new covered shoreline structures would require a variance from the Agency.

**§ 576.1(c)(5): Whether granting the variance will adversely affect the natural, scenic, and open space resources of the Park and any adjoining water body due to erosion, surface runoff, subsurface sewage effluent, change in aesthetic character, or any other impacts which would not otherwise occur.**

Construction of the authorized structures without the associated wastewater, stormwater, and erosion and sediment controls, establishment of buoys and navigation channels, invasive species management plans, dredging specifications, limitations on vegetation removal, and plantings at the Annex site, could cause additional erosion or surface runoff and lead to adverse changes to the aesthetic character of the waterbody. Implementation of the proposed Project Plans along with the Engineering Report, SWPPP, and Annex Stormwater Report will create fewer impacts to Lower Saranac Lake and the resources of the Park than reconstruction of the pre-existing marina.

**§ 576.1(c)(6): Whether the imposition of conditions upon the granting of the variance will ameliorate the adverse effects noted above.**

The conditions included in this permit and order will ameliorate any potential adverse effects from the variance elements. In particular, the conditions regarding wastewater treatment, stormwater/erosion and sediment control, buoys/navigation channels, dredging, invasive species, structure color, outdoor lighting, signs, plantings, vegetative cutting and removal, and adherence to the approved plans will ensure that there will be no adverse effects from the granting of the variance.

## **CONCLUSIONS OF LAW**

### **Class A Project**

The Agency has considered all statutory and regulatory criteria for project approval set forth in the Adirondack Park Agency Act, the Freshwater Wetlands Act and 9 NYCRR Part 578, and 9 NYCRR Part 574. Taking into account the impacts from the pre-existing marina, the Agency hereby finds that the project authorized as conditioned herein:

- a. will be consistent with the land use and development plan;
- b. will be compatible with the character description and purposes, policies, and objectives of the Hamlet land use area;
- c. will be consistent with the overall intensity guidelines for the Hamlet land use area;
- d. will comply with the shoreline restrictions of § 806 of the Adirondack Park Agency Act, except as approved in the variance granted herein;
- e. will not have an undue adverse impact upon the natural, scenic, aesthetic, ecological, wildlife, historic, recreational or open space resources of the Park or upon the ability of the public to provide supporting facilities and services made necessary by the project;
- f. will secure the natural benefits of wetlands associated with the project, consistent with the general welfare and beneficial economic, social, and agricultural development of the state; and
- g. will result in minimal degradation or destruction of the wetland or its associated values, and is the only alternative which reasonably can accomplish the applicant's objectives.

### **Variance**

The Agency has considered all of the standards and factors for issuance of a variance as set forth in 9 NYCRR Parts 576. The Agency hereby finds that the applicant's amended variance request meets the approval criteria, provided the authorized activities are undertaken as described herein and in compliance with the conditions set forth above.

PERMIT AND ORDER issued this \_\_\_\_\_ day  
of \_\_\_\_\_, 2020.

ADIRONDACK PARK AGENCY

BY: \_\_\_\_\_  
Robert J. Lore  
Deputy Director, Regulatory Programs

STATE OF NEW YORK  
COUNTY OF ESSEX

On the \_\_\_\_\_ day of \_\_\_\_\_ in the year 2020, before me, the undersigned, a Notary Public in and for said State, personally appeared Robert J. Lore, personally known to me or proved to me on the basis of satisfactory evidence to be the individual whose name is subscribed to the within instrument and acknowledged to me that he executed the same in his capacity, and that by his signature on the instrument, the individual, or the person upon behalf of which the individual acted, executed the instrument.

\_\_\_\_\_  
Notary Public

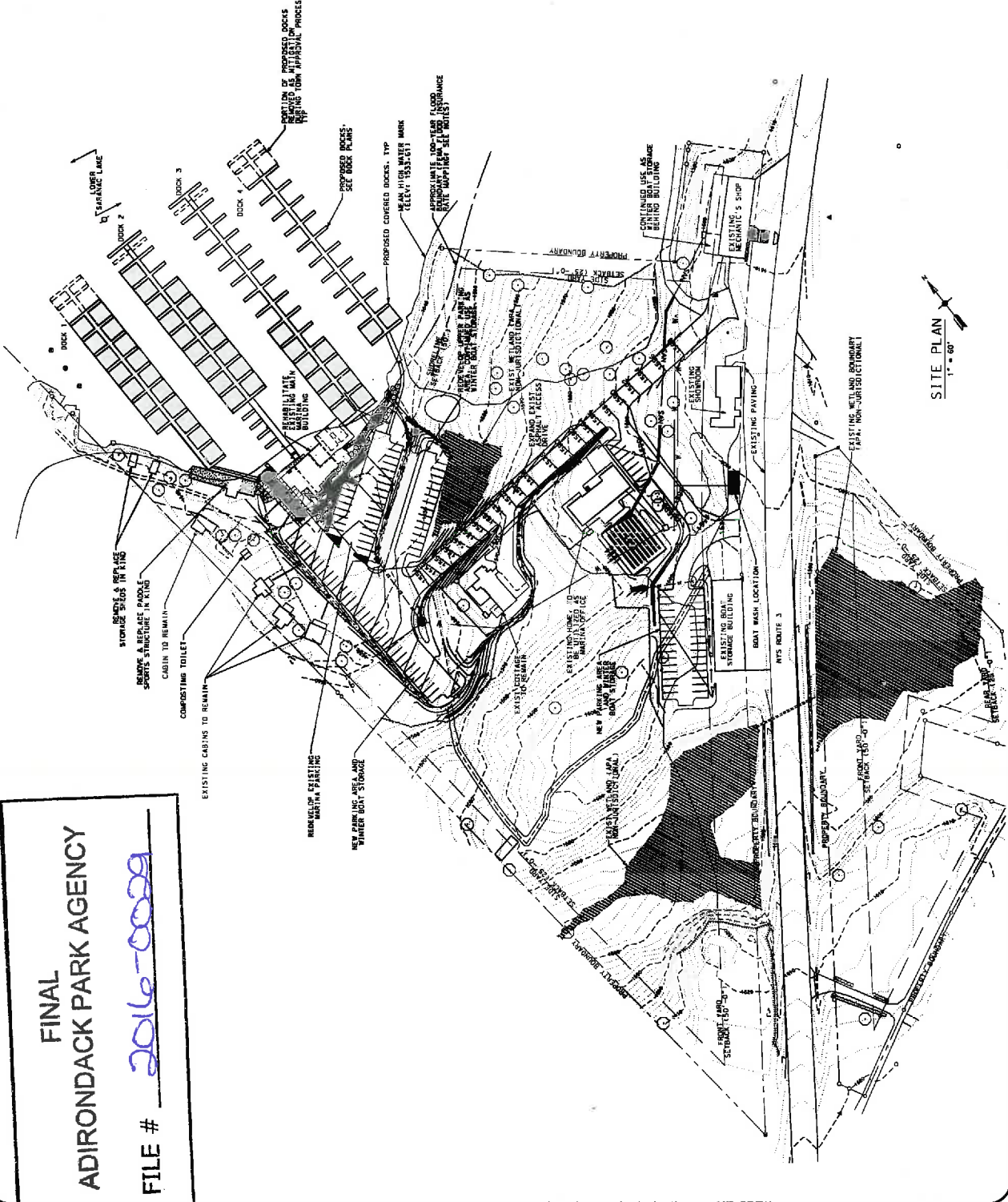




DATE	ISSUED FOR	REVISION
08/20/15	FOR PERMIT	1
09/01/15	FOR PERMIT	2
09/01/15	FOR PERMIT	3
09/01/15	FOR PERMIT	4
09/01/15	FOR PERMIT	5
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09/01/15	FOR PERMIT	100

PROJECT NAME: LS MARINA, LLC SARANAC LAKE MARINA  
 LOCATION: SARANAC LAKE, NY  
 DRAWN BY: BJD/2015  
 CHECKED BY: JAC/2015  
 DATE: 08/20/15  
 ORIGINAL: 24"x36"

- LEGEND**
- PROPERTY BOUNDARY
  - EXISTING BUILDING
  - SETBACK
  - MEAN HIGH WATER
  - MARK
  - WETLANDS FLOOD
  - PLANTING AREA
  - BOUNDARY
  - WETLAND
  - COVERED PORTION
  - SEWER
  - 1" = 10' SCA
- WPA LAND USE CLASSIFICATION: HANLEY**
1. WPA LAND USE CLASSIFICATION: HANLEY
  2. FLOOD BOUNDARY IS FROM BEST-ESTIMATED FLOODWAY FOR COLEMAN SARANAC LAKE.
  3. WETLANDS DELINEATED SUMMER OF 2014.



**FINAL**  
**ADIRONDACK PARK AGENCY**  
 FILE # 2016-0029



**LS MARINA, LLC  
 SARANAC LAKE MARINA**

**PROJECT NAME**  
SARANAC LAKE MARINA

**LOCATION**  
SARANAC LAKE, FLORIDA

DATE	ISSUED FOR	REV
07-14-2014	OWNER CHANGES	1

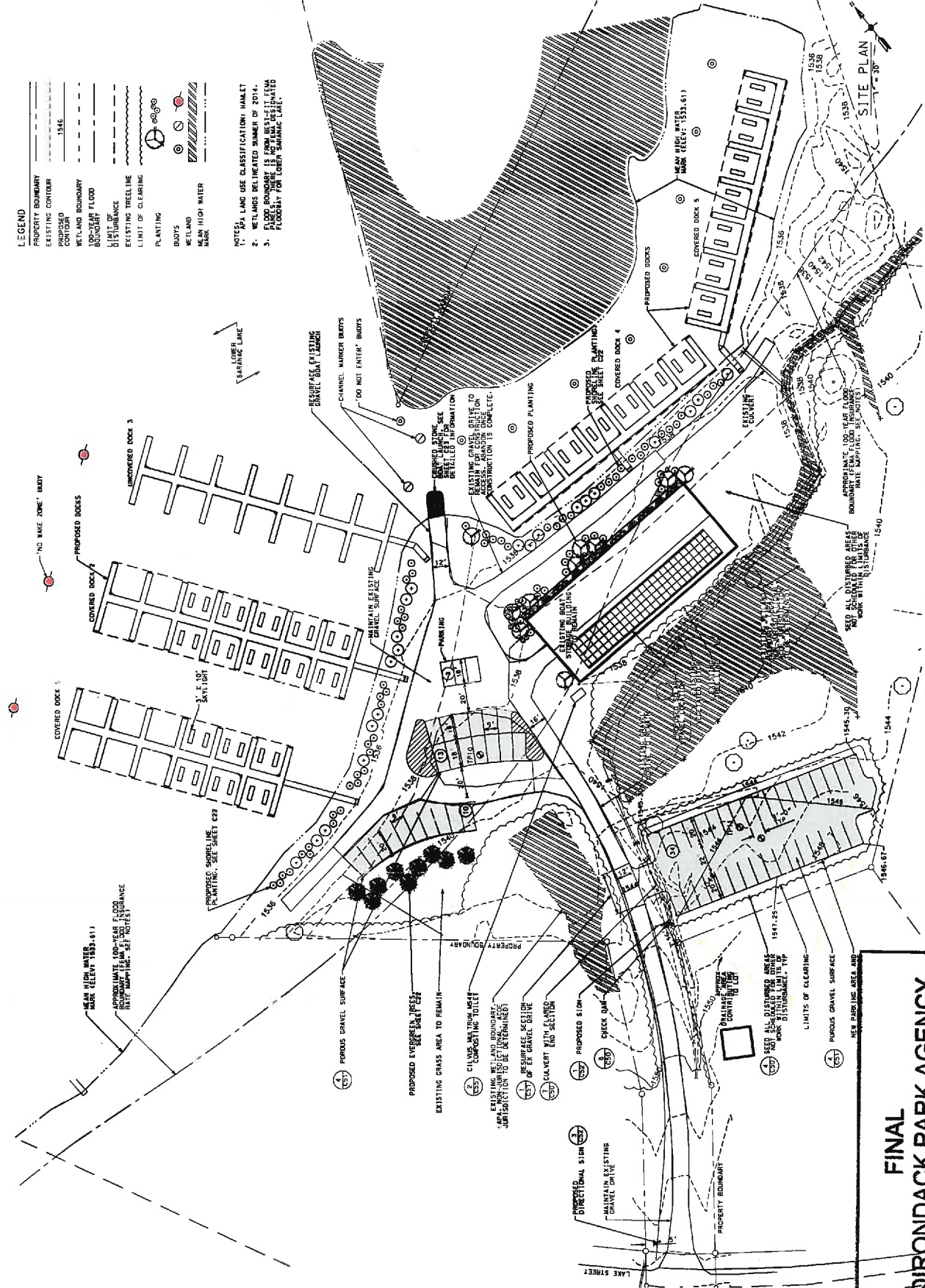
**DRAWN BY:** DM/JAM/HRD  
**PROJECT #:** 14-0000  
**ORIGINAL #:** 24-2000  
**TITLE:**

**ANNEX MARINA OVERALL SITE PLAN**

**LEGEND**

- PROPERTY BOUNDARY (solid line)
- EXISTING CONTOUR (dashed line)
- PROPOSED CONTOUR (dotted line)
- WETLAND BOUNDARY (long-dashed line)
- LOW-YEAR FLOOD LIMIT OF DISTURBANCE (dashed line)
- EXISTING TREE LINE (dashed line with circles)
- LIMIT OF CLEARING (dotted line)
- PLANTING (circle with cross)
- BUDS (circle with dot)
- WETLAND (hatched area)
- MEAN HIGH WATER MARK (dotted line)

**NOTES:**  
 1. APA LAND USE CLASSIFICATION HAMLET  
 2. WETLAND DELIMITED SUMMER OF 2014.  
 3. FLOOD BOUNDARY IS APPROXIMATE 100-YEAR FLOOD FLOODWAY FOR LOREN SARANAC LAKE.



**FINAL  
 ADIRONDACK PARK AGENCY**

FILE # 2016-0029



LOCATION	SARANAC LAKE MARINA
DATE	10/15/16
DESIGNED BY	DR/DF
CHECKED BY	DR/DF
PROJECT NO.	16-009
TITLE	MAIN MARINA AQUATIC VEGETATION DIAGRAM

- LEGEND**
- PROPERTY LINE
  - 1" BATHYMETRIC LINE
  - SUBMERGED AQUATIC VEGETATION (SAV)
  - SAV WITH DOCKS ABOVE
  - AREA LESS THAN 7' DEEP TO BE UNCOVERED
  - APPROXIMATE 100-YEAR FLOOD LOCATIONS
  - COVERED DOCKS
  - EXISTING STRUCTURES TO BE RECONSTRUCTED/REINFORCED
  - 50 FT BUFFER HOUSE/DOCK
  - 50 FT BUFFER HOUSE/DOCK

**SUBMERGED AQUATIC VEGETATION**

AREA	11,176 SF
DOCKS ABOVE	3,422 SF
TOTAL	14,598 SF

AREA LESS THAN 7' DEEP TO BE UNCOVERED: 6,487 SF

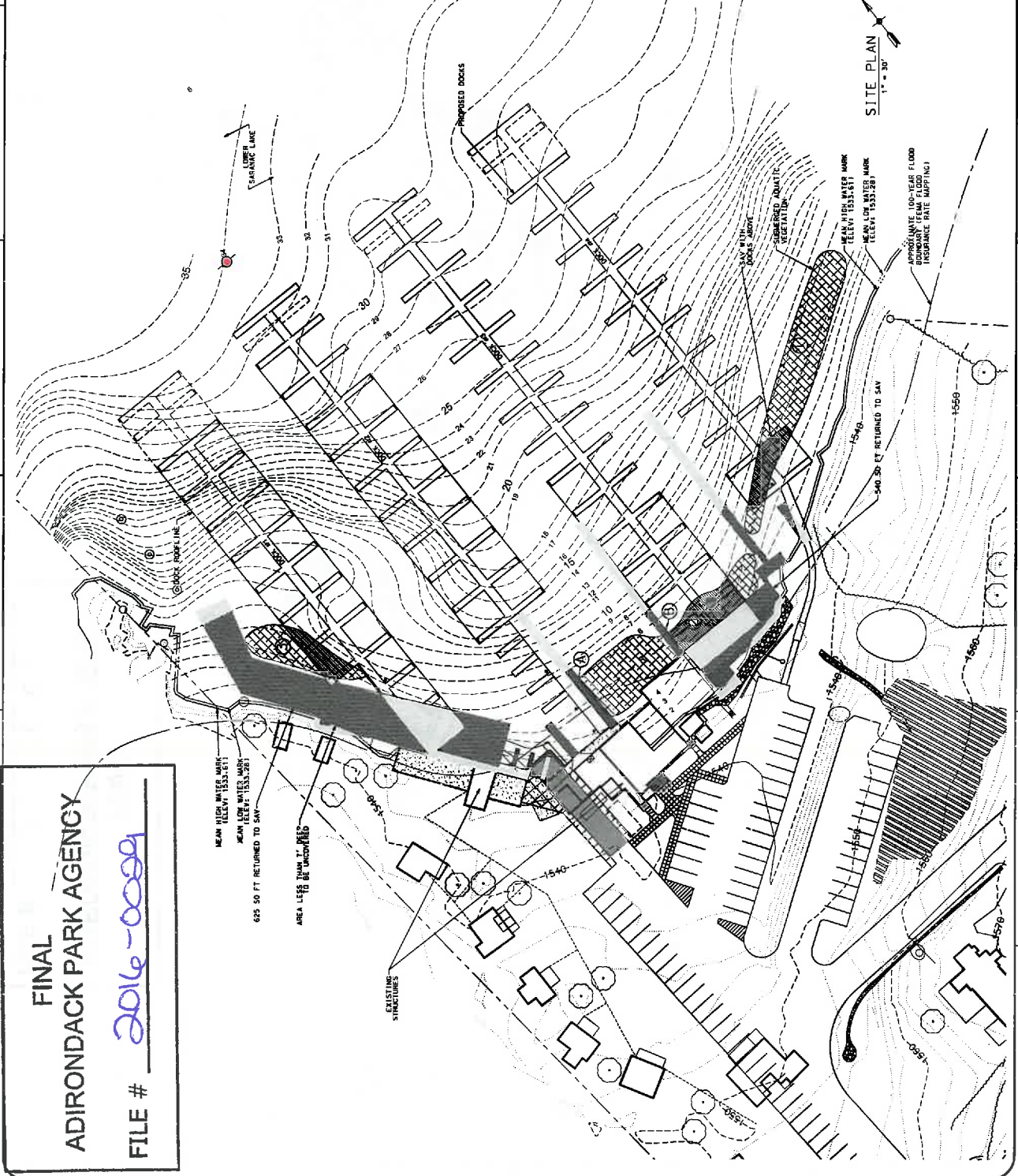
COVER REMOVED, AREA ALLOWED TO BECOME SAV HABITAT AREA: 8,111 SF

DOCKS REMOVED: 625 - 640 = 1,065 SF

TOTAL NET SAV HABITAT: 11,065 + 95 = 11,260 SF

NET SAV IMPACT AREA: 2,230 - 1,260 = 970 SF

NOTE: RETURNED TO SAV OBTAINED BY TURNING SAND, ROES AND WETTED BY MEANS OF DREDGE. SAV CAN BE GROWN ON SAND.



**FINAL**  
**ADIRONDACK PARK AGENCY**  
FILE # 2016-009



DATE	ISSUED FOR	BY
08-09-2016	FOR PERMITTING	1
08-09-2016	FOR SUPPLEMENT	2
08-09-2016	FOR SUPPLEMENT	3
08-10-2016	FOR SUPPLEMENT	4
07-14-2016	FOR SUPPLEMENT	5
07-14-2016	FOR SUPPLEMENT	6
07-14-2016	FOR SUPPLEMENT	7

ANNEX MARINA  
VEGETATION  
DIAGRAM

**SUBMERGED AQUATIC VEGETATION**

AREA	AREA (SQ. FT.)
NET AREA	10,966 SF
TOTAL	13,180 SF

NOTE: ALL COVERED AREAS OVER 500 SQ. FT. HAVE SAT LIGHTS  
 \*\* 558 SF IN CREEK AREA

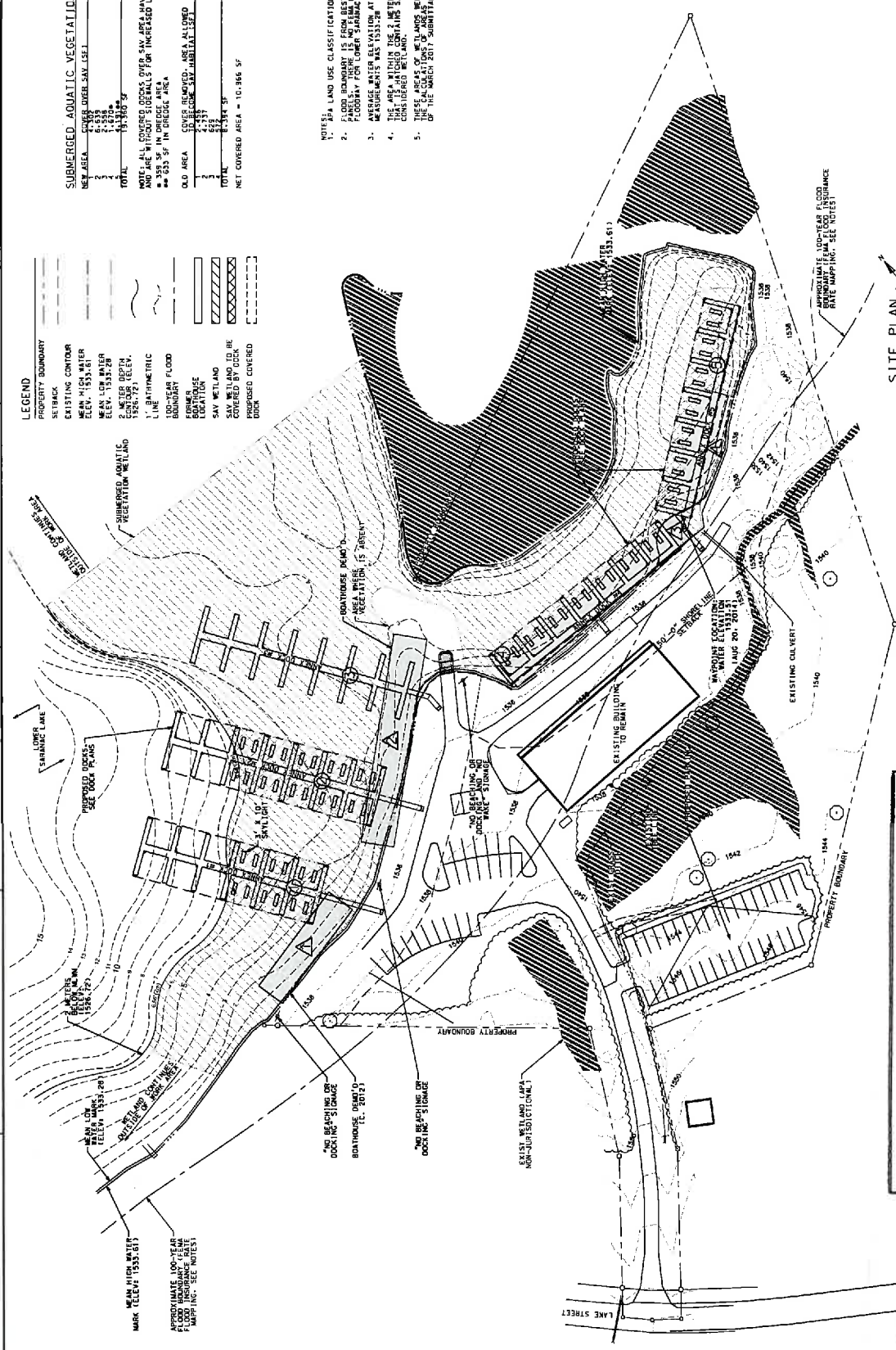
AREA	AREA (SQ. FT.)
OLD AREA	10,966 SF
TOTAL	13,180 SF

NET COVERED AREA = 10,966 SF

- NOTE: SEA LAND USE CLASSIFICATION: HMM ET
- FLOOD BOUNDARY IS FROM BEST-FIT FEMA PANELS BY AREA IS NOT ARIALLY DESIGNATED
  - AVERAGE WATER ELEVATION AT TIME OF DEPTH MEASUREMENTS WAS 1531.28'
  - THE AREA WITHIN THE 2-METER CONTOUR LINE IS CONSIDERED WETLAND.
  - THESE AREAS OF WETLANDS WERE USED IN RESPONSE 4 OF THE MARCH 2017 SUBMITTAL.

**LEGEND**

PROPERTY BOUNDARY	---
SETBACK	---
EXISTING CONTOUR	---
MEAN HIGH WATER ELEV. 1533.61	---
MEAN LOW WATER ELEV. 1531.28	---
2-METER DEPTH CONTOUR ELEV.	---
1'-BATHYMETRIC LINE	---
100-YEAR FLOOD BOUNDARY	---
BOATHOUSE LOCATION	---
SEA WETLAND TO BE COVERED BY DOCK	---
PROPOSED COVERED DOCK	---



SITE PLAN  
1" = 40'

FINAL  
ADIRONDACK PARK AGENCY  
FILE # 2016-0029