

DEVAL L. PATRICK Governor

TIMOTHY P. MURRAY Lieutenant Governor

COMMONWEALTH OF MASSACHUSETTS

EXECUTIVE OFFICE OF ENERGY & ENVIRONMENTAL AFFAIRS

DEPARTMENT OF ENVIRONMENTAL PROTECTION

SOUTHEAST REGIONAL OFFICE 20 RIVERSIDE DRIVE, LAKEVILLE, MA 02347 508-946-2700

> IAN A. BOWLES Secretary

LAURIE BURT Commissioner

JAN 0 3 2011.

Wychmere Harbor Functions LP c/o A. M. Wilson Associates, Inc. 20 Rascally Rabbit Road, Unit 3 Marstons Mills, MA 02648

RE: ISSUANCE OF CHAPTER 91 WATERWAYS LICENSE Waterways License Application No. W10-3145, License No. 12939 Wychmere Harbor Functions LP, Wychmere Harbor, 23 Snow Inn Road, Harwich

Dear Sir or Madam,

The Department of Environmental Protection hereby issues the above-referenced Waterways License, enclosed, authorizing you to perform certain activities pursuant to M.G.L. c. 91, the Public Waterfront Act and its regulations 310 CMR 9.00. Any change in use or alteration of any structure or fill not authorized by this license may render this license void.

This License is not final until all administrative appeal periods from this License have elapsed, or if such an appeal has been taken, until all proceedings before the Department have been completed. The appeal period is for twenty-one (21) days. No work shall be undertaken until the License has become final and has been recorded in the Registry of Deeds or the Land Court for the district in which the land is located, within the chain of title of the affected property

RECORDING OF THE LICENSE

This License must be recorded at the Registry of Deeds or, if registered land, with the Land Registration Office within sixty (60) days from the date of license issuance. In the case of recorded land, the License shall also be noted in the Registry's Grantor Index under the name of the owner of the land upon which the project is located. In the case of the registered land, the License shall be noted on the Land Court Certificate of Title of the owner of the land upon which the project is located. Failure to record this license within sixty (60) days of the date of issuance will render this license void pursuant to 310 CMR 9.18.

A Waterways License Recordation Notice Form has been enclosed for your use in notifying the Department of the recording information for this License. Failure to notify the Department of the recording of this license is a violation of 310 CMR 9.00 and is subject to enforcement action by the Department.

ISSUANCE OF CHAPTER 91 WATERWAYS LICENSE Waterways License Application No. W10-3145, License No. 12939 Wychmere Harbor Functions LP, Wychmere Harbor, 23 Snow Inn Road, Harwich

Mass. Department of Environmental Protection Commonwealth Master Lockbox P.O. Box 4062 Boston, Massachusetts 02211

What information must be included in the hearing request?

Pursuant to 310 CMR 9.17(3), any Notice of Claim requesting an adjudicatory hearing must include the following information:

(a) the MassDEP Waterways Application File Number;

(b) the complete name, address, fax number and telephone number of the applicant;

(c) the address of the project;

- (d) the complete name, address, fax number, and telephone number of the party filing the request and, if represented by counsel, the name, address, fax number, and phone number of the attorney;
- (e) if claiming to be a person aggrieved, the specific facts that demonstrate that the party satisfies the definition of "aggrieved person" found in 310 CMR 9.02;

(f) a clear statement that a formal adjudicatory hearing is being requested;

- a clear statement of the facts which are the grounds for the proceedings, the specific objections to the MassDEP's written decision, and the relief sought through the adjudicatory hearing, including specifically the changes desired in the final written decision; and
- (h) a statement that a copy of the request has been sent to: the applicant and the municipal official of the city or town where the project is located.

Dismissal of request

The request for appeal will be dismissed if the filing fee is not paid, unless the appellant is exempt or is granted a waiver. The filing fee is not required if the appellant is a city or town (or municipal agency), county, or district of the Commonwealth of Massachusetts, or a municipal housing authority. The Department may waive the adjudicatory hearing filing fee pursuant to 310 CMR 4.06(2) for a person who shows that paying the fee will create an undue financial hardship. A person seeking a waiver must file an affidavit setting forth the facts believed to support the claim of undue financial hardship together with the hearing request as provided above.

Please feel free to contact Lisa Ramos of the Waterways Regulation Program, (508) 946-2748, if you have any questions pertaining to the recording of your Waterways License or Certificate of Compliance.

Sincerely,

Llizabeth A. Kouloheras, Chief

David E. Hill

Wetlands and Waterways Program

cc: w/enc.

Ben Lynch, Waterways Section Chief, DEP Boston

Office of Coastal Zone Management

Harwich Harbormaster

Wychmere Harbor Functions LP

Lisa Ramos
Department of Environmental Protection
Waterways Regulation Program
20 Riverside Drive
Lakeville, MA 02347

RE: Waterways Application No. W10-3145, License No. 12939, Transmittal #X233190 Wychmere Harbor Channel, Harwich, Barnstable County

Dear Ms. Ramos:

Date of Recordation:

This is to notify you that the above referenced Waterways license was recorded with the appropriate Registry of Deeds / Land Court for this project location and to provide your office with the following recordation information.

| County Registry of Dee | eds: | | | | |
|----------------------------|----------------------------|---------------|----------------|----------------|----------|
| Book number | and page number(s) |) | | • | |
| • | | | • | | |
| Land Court: | | | | | ·. · |
| Land Court Lot # | Plan # | | _ | · | |
| Certificate Document N | Tumber | | _ | | |
| | | | | | |
| We will notify your office | in writing of the date the | he authorized | work or change | e in use is co | mpleted. |
| | | | | | • |
| Sincerely, | · | | | | |
| | , Chap | ter 91 Waterw | ays Licensee | | |

LICENSE VOID
IF NOT RECORDED
WITHIN 60 DAYS
OF ISSUANCE

The Commonwealth of Massachusetts

No. 12939



Whereas, Wychmere Harbor Functions LP

of -- Boston -- in the County of -- Suffolk -- and Commonwealth aforesaid, has applied to the Department of Environmental Protection for license to -- amend License No. 9320 to include berthing for up to nine (9) vessels along the existing pier --

and has submitted plans of the same; and whereas due notice of said application, and of the time and place fixed for a hearing thereon, has been given, as required by law, to the -- Board of Selectmen -- of the -- Town of Harwich. --

NOW, said Department, having heard all parties desiring to be heard, and having fully considered said application, hereby, subject to the approval of the Governor, authorizes and licenses the said

-- Wychmere Harbor Functions LP --, subject to the provisions of the ninety-first chapter of the General Laws, and of all laws which are or may be in force applicable thereto, to -- amend License No. 9320 to include berthing for up to nine (9) vessels along the existing pier --

in and over the waters of -- Wychmere Harbor Channel -- at -- 23 Snow Inn Road -- in the -- Town of Harwich -- and in accordance with the locations shown and details indicated on the accompanying DEP License Plan No. 9320 dated April 4, 2001 (6 sheets) and December 1, 1989 (10 sheets).

The structures hereby authorized shall be limited to the following use(s): to provide a private recreational boating facility as defined by 310 CMR 9.02, effective October 4, 1990.

This license will expire thirty (30) years from May 17, 2002, the date of license issuance of License No. 9320. By written request of the licensee for an amendment, the Department may grant a renewal for the term of years not to exceed that authorized in the original license.

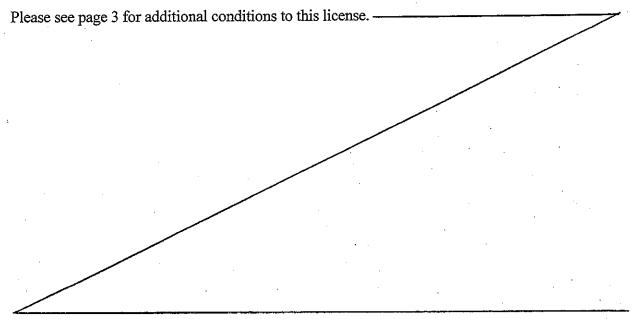
Special Waterways Conditions:

Existing structures previously authorized under Department of Environmental Protection License No. 9320 shall be maintained in accordance with the terms and conditions of said license and plans. Accordingly, the Licensee shall maintain in good repair the public viewing deck and associated pathway with signage as referenced in the Special Conditions of License No. 9320.

A maximum of nine (9) vessels may be berthed along the pier at any one time. Vessels shall be berthed parallel to the pier. Rafting of vessels in not permitted.

No dredging (including, but not limited to the effects of prop wash) is permitted herein.

The project authorized under License No. 9320 has been completed in conformance with the accompanying license plans and the Department has issued a Certificate of Compliance dated September 4, 2008. Since the project use authorized herein will not result in the modification or expansion of existing structures, the issuance of this License, therefore, fulfills the Licensee's obligation to obtain a Certificate of Compliance pursuant to 310 CMR 9.19.



Duplicate of said plan, number 9320 is on file in the office of said Department, and original of said plan accompanies this License, and is to be referred to as a part hereof.

STANDARD WATERWAYS LICENSE CONDITIONS

- 1. Acceptance of this Waterways License shall constitute an agreement by the Licensee to conform with all terms and conditions stated herein.
- 2. This License is granted upon the express condition that any and all other applicable authorizations necessitated due to the provisions hereof shall be secured by the Licensee <u>prior</u> to the commencement of any activity or use authorized pursuant to this License.
- 3. Any change in use or any substantial structural alteration of any structure or fill authorized herein shall require the issuance by the Department of a new Waterways License in accordance with the provisions and procedures established in Chapter 91 of the Massachusetts General Laws. Any unauthorized substantial change in use or unauthorized substantial structural alteration of any structure or fill authorized herein shall render this Waterways License void.
- 4. This Waterways License shall be revocable by the Department for noncompliance with the terms and conditions set forth herein. This license may be revoked after the Department has given written notice of the alleged noncompliance to the Licensee and those persons who have filed a written request for such notice with the Department and afforded them a reasonable opportunity to correct said noncompliance. Failure to correct said noncompliance after the issuance of a written notice by the Department shall render this Waterways License void and the Commonwealth may proceed to remove or cause removal of any structure or fill authorized herein at the expense of the Licensee, its successors and assigns as an unauthorized and unlawful structure and/or fill.
- 5. The structures and/or fill authorized herein shall be maintained in good repair and in accordance with the terms and conditions stated herein and the details indicated on the accompanying license plans.
- 6. Nothing in this Waterways License shall be construed as authorizing encroachment in, on or over property not owned or controlled by the Licensee, except with the written consent of the owner or owners thereof.
- 7. This Waterways License is granted subject to all applicable Federal, State, County, and Municipal laws, ordinances and regulations including but not limited to a valid final Order of Conditions issued pursuant to the Wetlands Protection Act, G.L. Chapter 131, s.40.
- 8. This Waterways License is granted upon the express condition that the use of the structures and/or fill authorized hereby shall be in strict conformance with all applicable requirements and authorizations of the DEP, Division of Water Pollution Control.
- 9. This License authorizes structure(s) and/or fill on:
- X Private Tidelands. In accordance with the public easement that exists by law on private tidelands, the licensee shall allow the public to use and to pass freely upon the area of the subject property lying between the high and low water marks, for the purposes of fishing, fowling, navigation, and the natural derivatives thereof.
- Commonwealth Tidelands. The Licensee shall not restrict the public's right to use and to pass freely, for any lawful purpose, upon lands lying seaward of the low water mark. Said lands are held in trust by the Commonwealth for the benefit of the public.
- ___ a Great Pond of the Commonwealth. The Licensee shall not restrict the public's right to use and to pass freely upon lands lying seaward of the high water mark for any lawful purpose.
- ___ Navigable River and Streams. The Licensee shall not restrict the public's right to use and to pass freely, for any lawful purpose, in the waterway.

No restriction on the exercise of these public rights shall be imposed unless otherwise expressly provided in this license.

10. Unless otherwise expressly provided by this license, the licensee shall not limit the hours of availability of any areas of the subject property designated for public passage, nor place any gates, fences, or other structures on such areas in a manner that would impede or discourage the free flow of pedestrian movement thereon.

The amount of tide-water displaced by the work hereby authorized has been ascertained by said Department, and compensation thereof has been made by the said -- Wychmere Harbor Functions LP -- by paying into the Treasury of the Commonwealth -- two dollars and zero cents (\$2.00) -- for each cubic yard so displaced, being the amount hereby assessed by said Department. (0 cy = \$0.00)

Nothing in this License shall be so construed as to impair the legal rights of any person.

This License shall be void unless the same and the accompanying plan are recorded within 60 days from the date hereof, in the Registry of Deeds for the County of Barnstable.

IN WITNESS WHEREAS, said Department of Environmental Protection have hereunto set their hands this 3rd day of january in the year two thousand eleven.

for Program Chief

| David E. Hill |
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Department of Environmental Protection

THE COMMONWEALTH OF MASSACHUSETTS

| This license is approved in considerat the said | torr of the paymont into the treatile, or the commentary |
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| of the further sum of | |
| the amount determined by the Gove hereby granted in the land of the Com | ernor as a just and equitable charge for rights and privileges monwealth. |
| | BOSTON, |
| Approved by the Governor. | |
| | Governor |

rules and regulations of the Registrars of Deeds as adopted June 19, 1975 and amended January 7, 1988. 04-16-01 Date_ Harwich Port, Mass RECEIVED & RECORDED Amalgamated Business Corporation Sound Nantucket Ctf. 106,551 BENCHMARK: Top of CB Elev.= 22.68 N.G.V.D. KEY MAP Mean High Water Life Estate Alice R. Pearse Bancroft R. Wheeler Dd. Bk. 1385 Mercy H. Wheeler IDd. Bk. 2449 Pg 281 209.38 Pg. 1168 \$8072'50'E ROAD Wide Wolking Moy Easement (Private Way) Wychmere . Inn Realty Trust Fennell, Trustes f. No. 116942 2. Pt. 14948—C Snow Inn Non-Water Dependent Miligation Plan Accompanying The Petition Of SNOW INN REALTY TRUST V 01 2 To Construct and Maintain TERRY YAYNE ELDREDGE Stairs and Viewing Platform WYCHMERE HARBOR Harwich Port, Barnstable County, Massachusetts Scale 1"=60" . April 4, 2001 LICENSE PLAN NO. Approved by Department of Environmental Processor Prepared By Eldredge, Quigley & Clark Surveying & Engineering 1038 Main Street, Chathom, MA 02633 1 of 6 Telephone: (508) 945–3965 7–01.0 FAX: (508) 945–5885 Ct भिरम्भरतंपाकार्यञ MAY 17 2002 Sheet 1 of 6

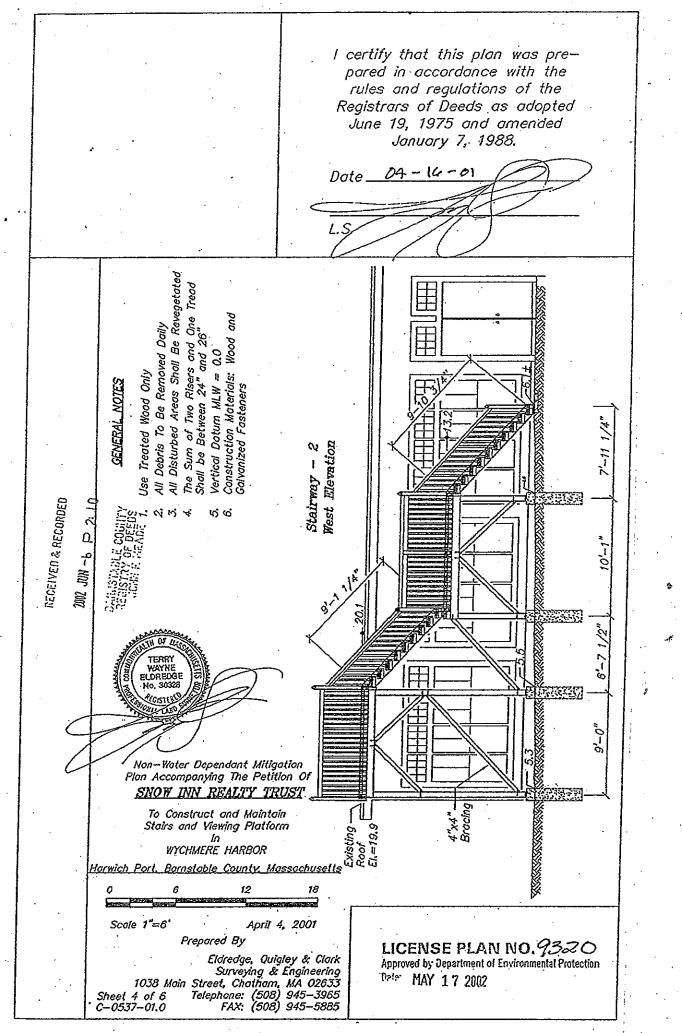
C-0537-01.0

I certify that this plan was prepared in accordance with the

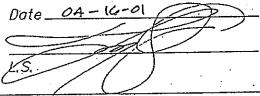
I certify that this plan was prepared in accordance with the rules and regulations of the Registrars of Deeds as adopted June 19, 1975 and amended January 7, 1988. Date 04-16-01 N85'09'10'E RECEIVED & RECORDED Mean High Water S86<u>18'51"W 9.32"</u> N78<u>19'39"E</u> 8.90' Boat $ar{ ext{ t House}}$ Proposed Viewing Platform 5.5 Proposed \$8072'50'E 209.38 Stairway Roof Overhang Proposed Stairway 19.9 ^{#1} 19.7 Elevation-(Typical) · Channel a.k.a.Thompsons Clam Bar House Wychmere Deck Non-Water Dependant Mitigation Plan Accompanying The Petition Of SNOW INN REALTY TRUST To Construct and Maintain Stairs and Viewing Platform WYCHMERE HARBOR Harwich Port, Barnstable County, Massachusetts Scale 1"=30" April 4, 2001 La. (1997, MAN NO. 9320 Prepared By Appeared by Deposition of Environmental Probability Builty Eldredge, Quigley & Clark Surveying & Engineering 1038 Main Street, Chatham, MA 02633 2 of 6 Telephone: (508) 945–3965 7–01.0 FAX: (508) 945–5885 NAY 17 2002 Sheet 2 of 6 C-0537-01.0

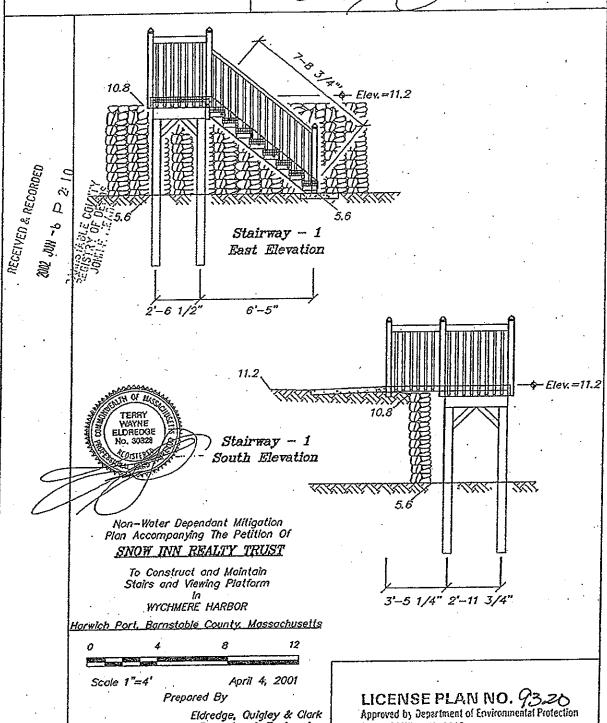
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I certify that this plan was prepared in accordance with the rules and regulations of the Registrars of Deeds as adopted June 19, 1975 and amended January 7, 1988. Date 04-16-01 to attach to Buildin RECEIVED & RECORDED Wewing Platform North Elevation 5"x6" Railing Non-Water Dependent Mitigation Plan Accompanying The Petition Of SNOW INN REALTY TRUST To Construct and Maintain Stairs and Viewing Platform WYCHMERE HARBOR Harwich Port, Barnstable County, Massachusetts April 4, 2001 Scale 1"=6" LICENSE PLAN NO. 9320 Prepared By Approved by Department of Environmental Protection Date: MAY 17 2002 Eldredge, Quigley & Clark Surveying & Engineering 1038 Moin Street, Chothom, MA 02633 3 of 6 Telephone: (508) 945–3965 7–01.0 FAX: (508) 945–5885 Sheet 3 of 6 C-0537-01.0



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Surveying & Engineering

1038 Main Street, Chatham, MA 02633 5 of 6 Telephone: (508) 945-3965 7-01.0 FAX: (508) 945-5885

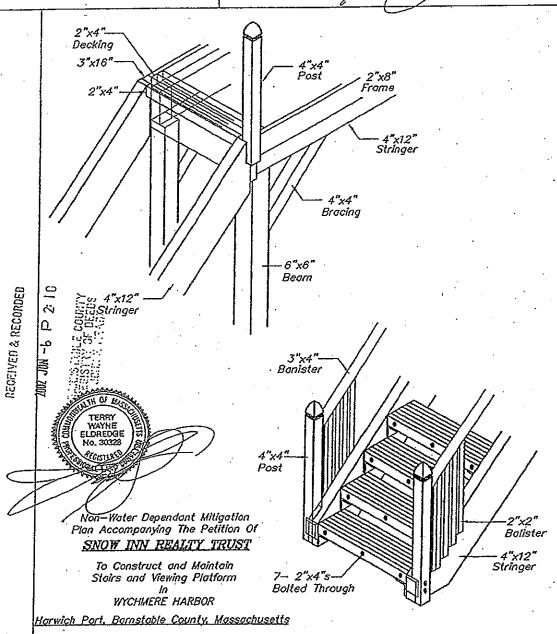
Sheet 5 of 6 C-0537-01.0

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Date 04-16-01

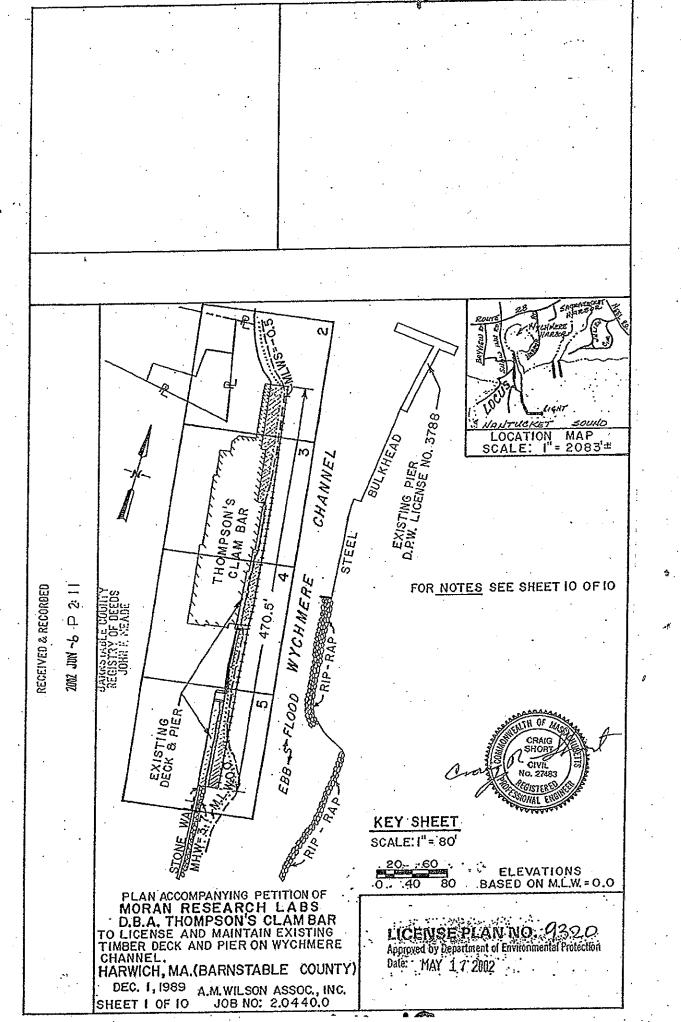


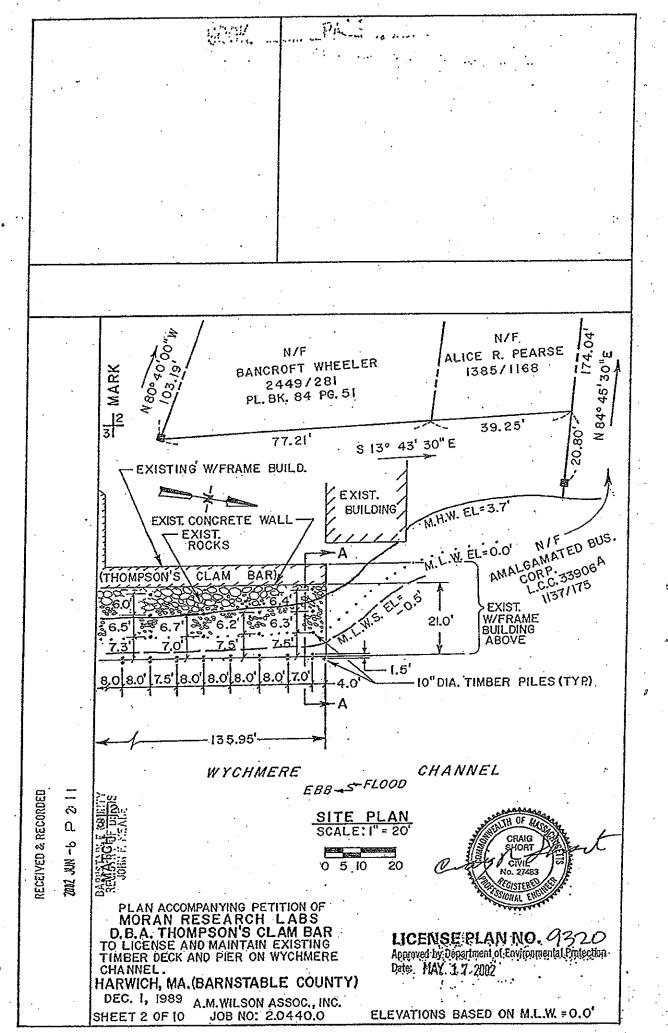


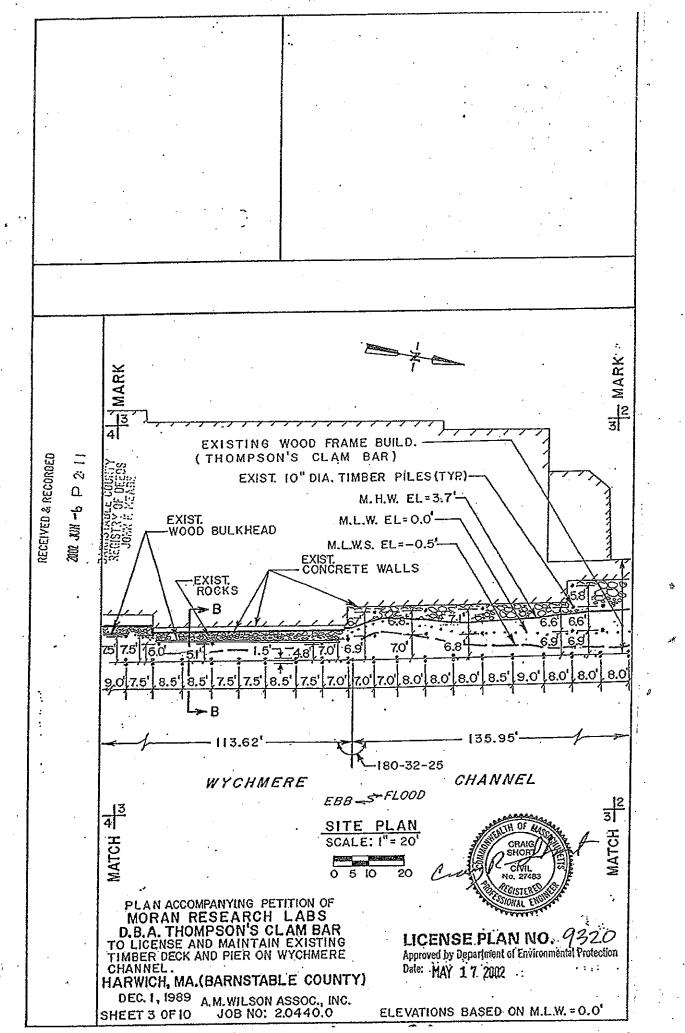
Scale 1"=4' April 4, 2001

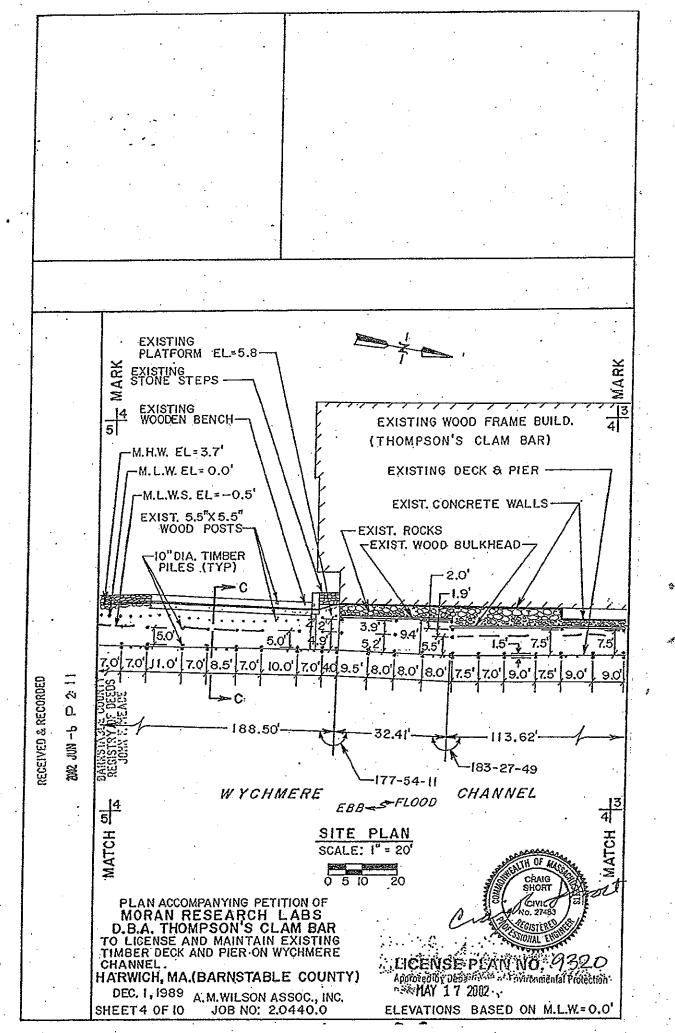
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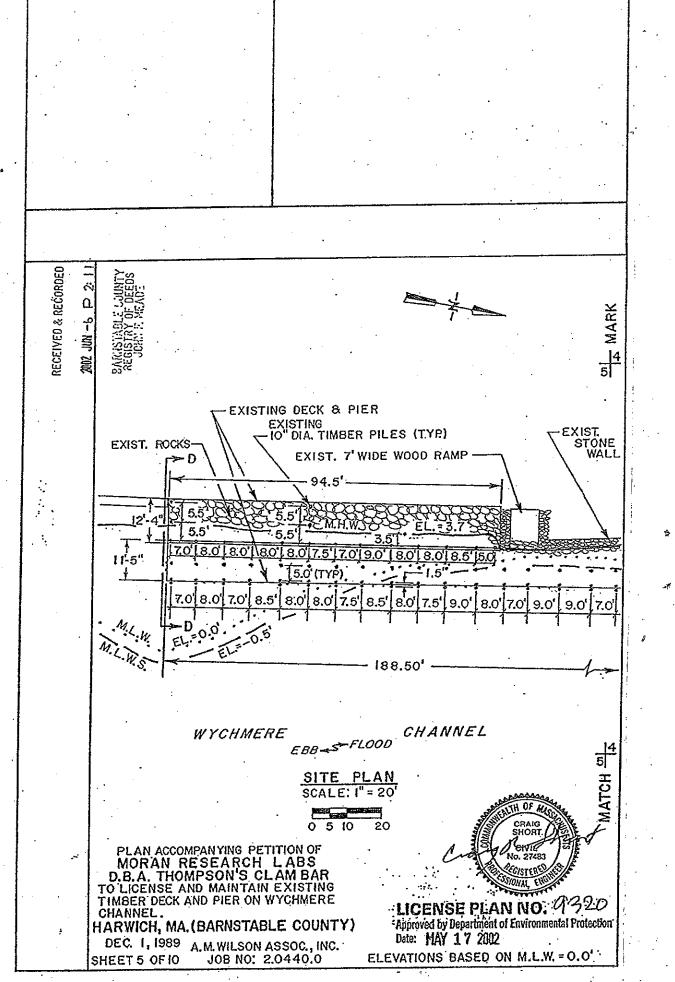
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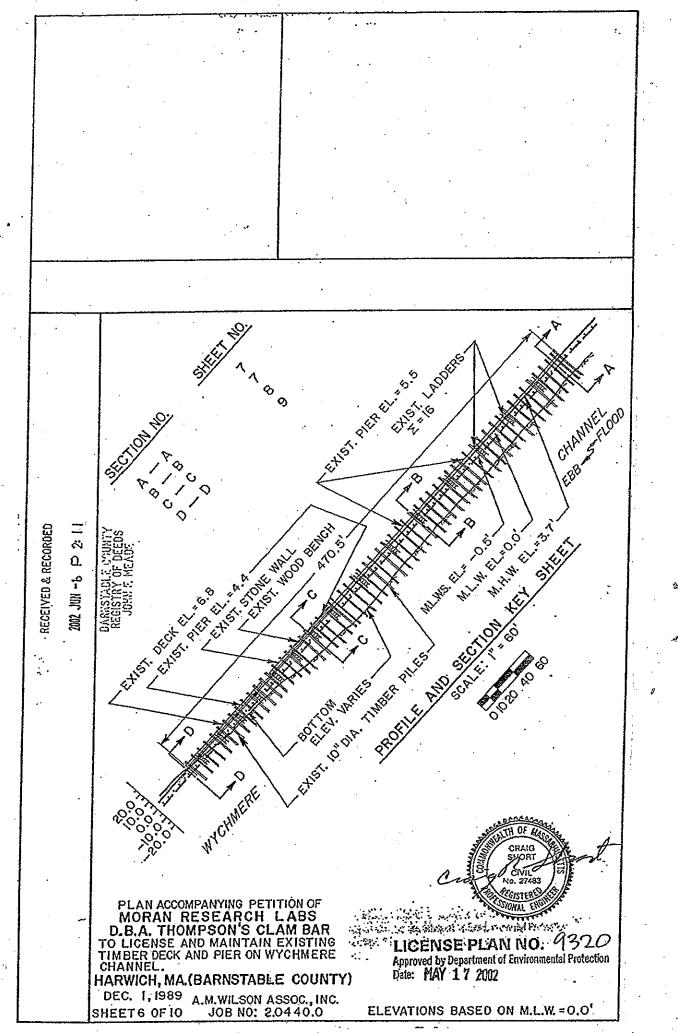


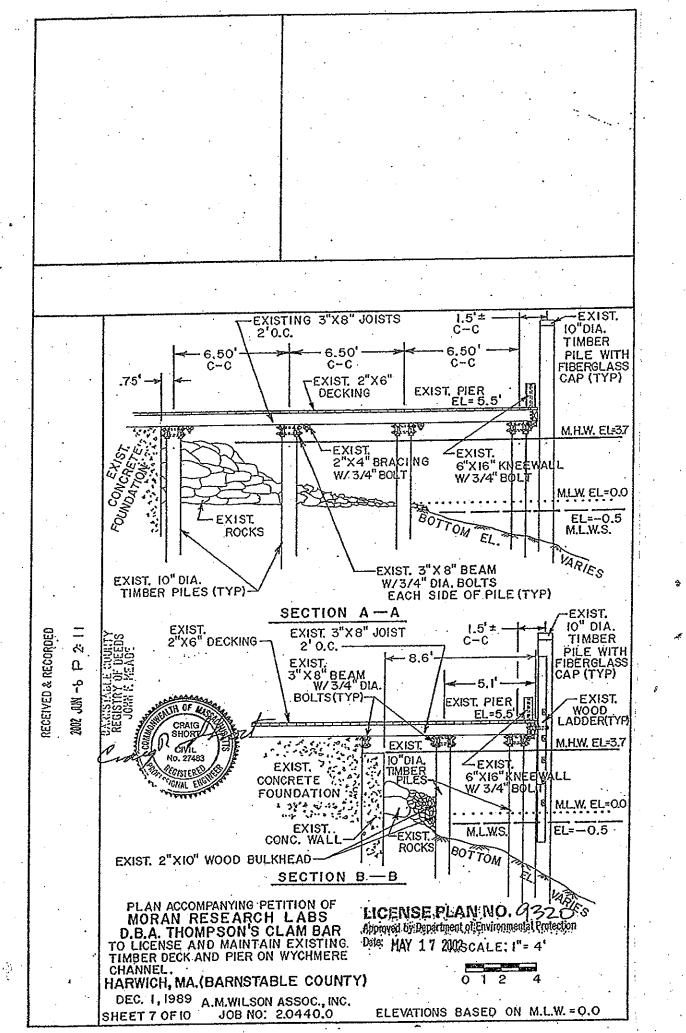


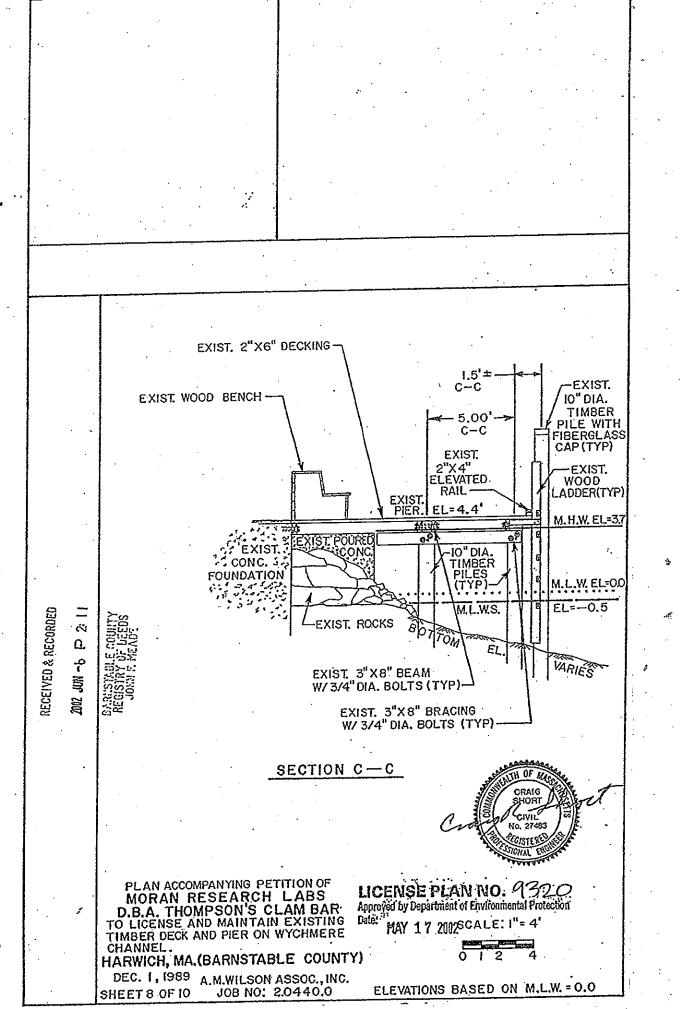


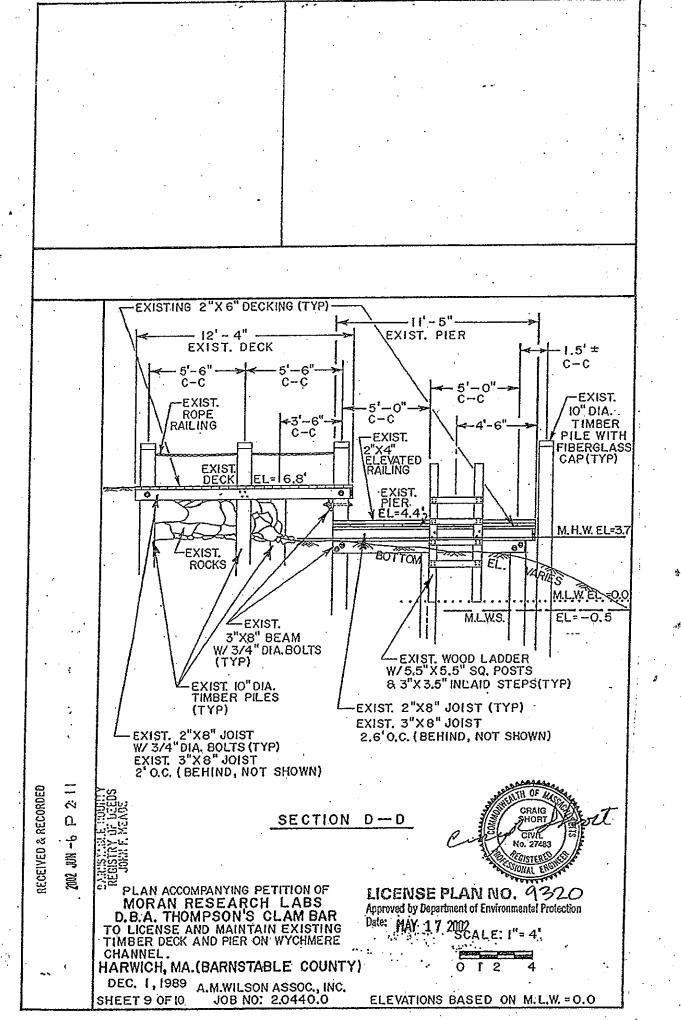


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NOTES:

- I. USE: PUBLIC ACCESS.
- 2. PROPERTY LINE TAKEN FROM "PLAN OF LAND IN BARNSTABLE, MA." BY SCHOFIELD BROTHERS, ORLEANS, MA., SEPT. 1948, PLAN BOOK 84 PAGE 51 AND DEED BOOK 3941 PAGE 117.
- 3. ALL MATERIALS TO BE MAINTAINED IN KIND AND IN PLACE AS NECESSARY.

CHAIG CHAIG CHAIG CAN A CAN A

PLAN ACCOMPANYING PETITION OF MORAN RESEARCH LABS D.B.A. THOMPSON'S CLAM BAR TO LICENSE AND MAINTAIN EXISTING TIMBER DECK AND PIER ON WYCHMERE CHANNEL.

HARWICH, MA. (BARNSTABLE COUNTY)

DEC. 1,1989 A.M.WILSON ASSOC., INC. SHEET IO OF IO JOB NO: 2.0440.0

LICENSE PLAN NO. 9320 Approved by Department of Environmental Protection Date: MAY 17 2002

ELEVATIONS BASED ON M.L.W. = 0.0'