

PROVISIONAL PERMIT

NOT VALID

DO NOT BEGIN WORK

This PROVISIONAL PERMIT is NOT VALID until:

1. You obtain a Section 401 Water Quality Certification and/or Coastal Zone Management consistency determination concurrence from the Delaware Department of Natural Resources and Environmental Control.
2. You sign and return **BOTH** copies of the enclosed provisional permit with the State Section 401 Water Quality Certification and/or Coastal Zone Management consistency determination concurrence and the \$100.00 permit fee.
3. The Corps signs the permit and returns it to you.

Your permit is denied without prejudice, if the State denies your Section 401 Water Quality Certification and/or nonconcurs with your Coastal Zone Management consistency determination.

DO NOT BEGIN WORK

## DEPARTMENT OF THE ARMY PERMIT

### PERMITTEE AND PERMIT NUMBER:

PERMITTEE: Dewey Beach Enterprises, Incorporated  
CENAP-OP-R-2013-170-23

### ISSUING OFFICE:

Department of the Army  
U.S. Army Corps of Engineers, Philadelphia District  
Wanamaker Building - 100 Penn Square East  
Philadelphia, Pennsylvania 19107-3390

NOTE: The term "you" and its derivatives, as used in this permit, means the permittee or any future transferee. The term "this office" refers to the appropriate district or division office of the Corps of Engineers having jurisdiction over the permitted activity or the appropriate official of that office acting under the authority of the commanding officer.

You are authorized to perform work in accordance with the terms and conditions specified below.

PROJECT DESCRIPTION: To conduct activities in waters of the United States intended to improve public access to Rehoboth Bay for recreational purposes.

All work is to be completed in accordance with the attached plans E-1 through E-5.

PROJECT LOCATION: Ruddertowne, 124 Dickinson Street, Dewey Beach, Sussex County, Delaware (Tax Map Parcel 3-34-23.06-1.00).

### PERMIT CONDITIONS:

#### General Conditions:

1. The time limit for completing the work authorized ends on 31 December 2016. If you find that you need more time to complete the authorized activity, submit your request for a time extension to this office for consideration at least one month before the above date is reached.
2. You must maintain the activity authorized by this permit in good condition and in conformance with the terms and conditions of this permit. You are not relieved of this requirement if you abandon the permitted activity, although you may make a good faith transfer to a third party in compliance with General Condition 4 below. Should you wish to cease to maintain the authorized activity or should you desire to abandon it without a good faith transfer, you must obtain a modification of this permit from this office, which may require restoration of the area.

3. If you discover any previously unknown historic or archeological remains while accomplishing the activity authorized by this permit, you must immediately notify this office of what you have found. We will initiate the Federal and State coordination required to determine if the remains warrant a recovery effort or if the site is eligible for listing in the National Register of Historic Places.
4. If you sell the property associated with this permit, you must obtain the signature of the new owner in the space provided and forward a copy of the permit to this office to validate the transfer of this authorization.
5. If a conditioned water quality certification has been issued for your project, you must comply with conditions specified in the certification as special conditions to this permit. For your convenience, a copy of the certification is attached if it contains such conditions.
6. You must allow representatives from this office to inspect the authorized activity at any time deemed necessary to ensure that it is being or has been accomplished in accordance with the terms and conditions of your permit.

Special Conditions:

1. All work performed in association with the above noted project shall be conducted in accordance with the project plans identified as E-1 through E-5. The project plans illustrate a proposal to conduct activities in waters of the United States intended to improve public access to Rehoboth Bay for recreational purposes. The proposed activities include the following:

To maintain a 2.5' wide by 60' long timber deck/walkway over Rehoboth Bay constructed by a previous owner;

To construct a 16' wide by 358' long public access recreational timber walkway over Rehoboth Bay along the northern and western perimeter of the site;

To place 1600 cubic yards of clean, beach-compatible sand along 190 linear feet of shoreline of Rehoboth Bay to widen the existing beach by 60' and to raise the elevation 2' above MHW (0.37 acre of fill in waters);

To construct a stone containment structure (groin) 90' in length consisting of 200 to 400 pound stone perpendicular to the shoreline along the northern limit of the beach to contain the sand (0.10 acre of fill in waters);

To replace an existing reinforced concrete storm-water outfall pipe and extend it approximately 50 feet to the water-ward limit of the filled area.

2. Construction activities shall not result in the disturbance or alteration of greater than 0.47 acre of waters of the United States.
3. Any deviation in construction methodology or project design from that shown on the above noted drawings must be approved by this office, in writing, prior to performance of the work. All modifications to the above noted project plans shall be approved, in writing, by this office. No work shall be performed prior to written approval of this office.

4. This office shall be notified at least 10 days prior to the commencement of authorized work by completing and signing the attached *Notification/ Certification of Work Commencement Form*. This office shall also be notified within 10 days of the completion of the authorized work by completing and signing the attached *Notification/Certification of Work Completion/Compliance Form*. All notifications required by this condition shall be in writing and shall be transmitted to this office by registered mail. Oral notifications are not acceptable. Similar notification is required each time maintenance work is to be done under the terms of this Corps of Engineers permit.
5. The permittee understands and agrees that, if future operations by the United States require the removal, relocation, or other alteration, of the structure or work herein authorized, or if, in the opinion of the Secretary of the Army or his authorized representative, said structure or work shall cause unreasonable obstruction to the free navigation of the navigable waters, the permittee will be required, upon due notice from the Corps of Engineers, to remove, relocate, or alter the structural work or obstructions caused thereby, without expense to the United States. No claim shall be made against the United States on account of any such removal or alteration. (This special condition is applicable to Corps of Engineers permits that provide authorization under Section 10 of the Rivers and Harbors Act of 1899.)
6. The Special Conditions imposed by the Delaware Department of Natural Resources and Environmental Control (DDNREC) on your DDNREC Section 401 WQC and/or DDNREC CZM concurrence shall also be conditions to this Department of the Army permit.
7. Representatives of the U.S. Army Corps of Engineers shall be permitted to inspect the project during its phase of construction, and to collect any samples, or to conduct any tests deemed necessary.
8. The permittee is responsible for ensuring that the contractor and/or workers executing the activity(s) authorized by this permit have knowledge of the terms and conditions of the authorization and that a copy of the permit document is at the project site throughout the period the work is underway.
9. Every effort shall be made to keep construction debris from entering the waterway or wetland. Debris in the waterway or wetland shall be removed immediately.
10. All material to be used as fill shall be obtained from an upland source. The fill material shall be free of oil and grease, debris, wood, general refuse, plaster, and other pollutants, and shall contain no broken asphalt.
11. This permit does not authorize any dredging activities.
12. The mechanical equipment used to execute the work authorized shall be operated in such a way as to minimize turbidity that could degrade water quality and adversely affect aquatic plant and animal life.
13. In order to protect horseshoe crabs, no work shall occur in waters of the United States between April 15 and August 30 of any year.

14. This permit does not obviate the permittee from obtaining any State or local assent required by law for the activity authorized.

FURTHER INFORMATION:

1. Congressional Authorities: You have been authorized to undertake the activity described above pursuant to:

Section 10 of the Rivers and Harbors Act of 1899 (33 U.S.C. 403).

Section 404 of the Clean Water Act (33 U.S.C. 1344).

Section 103 of the Marine Protection, Research and Sanctuaries Act.

2. Limits of this authorization.

a. This permit does not obviate the need to obtain other Federal, State, or local authorizations required by law.

b. This permit does not grant any property rights or exclusive privileges.

c. This permit does not authorize any injury to the property or rights of others.

d. This permit does not authorize interference with any existing or proposed Federal projects.

3. Limits of Federal Liability. In issuing this permit, the Federal Government does not assume any liability for the following:

a. Damages to the permitted project or uses thereof as a result of other permitted or unpermitted activities or from natural causes.

b. Damages to the permitted project or uses thereof as a result of current or future activities undertaken by or on behalf of the United States in the public interest.

c. Damages to persons, property, or to other permitted or unpermitted activities or structures caused by the activity authorized by this permit.

d. Design or construction deficiencies associated with the permitted work.

e. Damage claims associated with any future modification, suspension, or revocation of this permit.

4. Reliance on Applicant's Data. The determination of this office that issuance of this permit is not contrary to the public interest was made in reliance on the information you provided.


5. Reevaluation of Permit Decision. This office may reevaluate its decision on this permit at any time the circumstances warrant. Circumstances that could require a reevaluation include, but are not limited to, the following:

- a. You fail to comply with the terms and conditions of this permit.
- b. The information provided by you in support of your permit application proves to have been false, incomplete, or inaccurate (see 4 above).
- c. Significant new information surfaces which this office did not consider in reaching the original public interest decision.

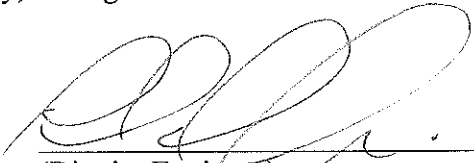
Such a reevaluation may result in a determination that it is appropriate to use the suspension, modification, and revocation procedures contained in 33 CFR 325.7 or enforcement procedures such as those contained in 33 CFR 326.4 and 326.5. The referenced enforcement procedures provide for the issuance of an administrative order requiring you to comply with the terms and conditions of your permit and for the initiation of legal action where appropriate. You will be required to pay for any corrective measures ordered by this office, and if you fail to comply with such directive, this office may in certain situations (such as those specified in 33 CFR 209.170) accomplish the corrective measures by contract or otherwise and bill you for the cost.

6. Extensions. General Condition 1 establishes a time limit for the completion of the activity authorized by this permit. Unless there are circumstances requiring either a prompt completion of the authorized activity or a reevaluation of the public interest decision, the Corps will normally give favorable consideration to a request for an extension of this time limit.

Your signature below, as permittee, indicates that you accept and agree to comply with the terms and conditions of this permit.

  
\_\_\_\_\_  
(PERMITTEE) 6-14-13  
\_\_\_\_\_  
(DATE)  
K. Thomas Harvey III  
President, Dewey Death Inquiry

This permit becomes effective when the Federal official, designated to act for the Secretary of the Army, has signed below.

  
\_\_\_\_\_  
(District Engineer) 6/19/13  
\_\_\_\_\_  
(DATE)  
Frank J. Cianfrani, Chief, Regulatory Branch

for: John C. Becking, P.E.  
Lieutenant Colonel, US Army  
District Commander

When the structures or work authorized by this permit are still in existence at the time the property is transferred, the terms and conditions of this permit will continue to be binding on the new owner(s) of the property. To validate the transfer of this permit and the associated liabilities associated with compliance with its terms and conditions, have the transferee sign and date below.

\_\_\_\_\_  
(TRANSFEEE)

\_\_\_\_\_  
(DATE)

PROPOSED 330' X 8' BAYS, 100' PUBLIC ACCESS RECREATIONAL WALKWAY WITH 8' X 32' AND 8' X 48' CRABBING/FISHING PLATFORMS; 2,000 C.Y. BAYSHORE BEACH RENOURISHMENT; 90' STONE GROIN; 50' RCP EXTENSION; AND 24-SLIP PUBLIC MARINA

IN: Rehoboth Bay  
 AT: Ruddertowne, 124 Dickinson Street  
 Dewey Beach, Sussex County, DE  
 (Tax Map Parcel #3-34-23.06-1.00)  
 APPLICANT: Dewey Beach Enterprises, Inc.  
 DATE: October, 2012

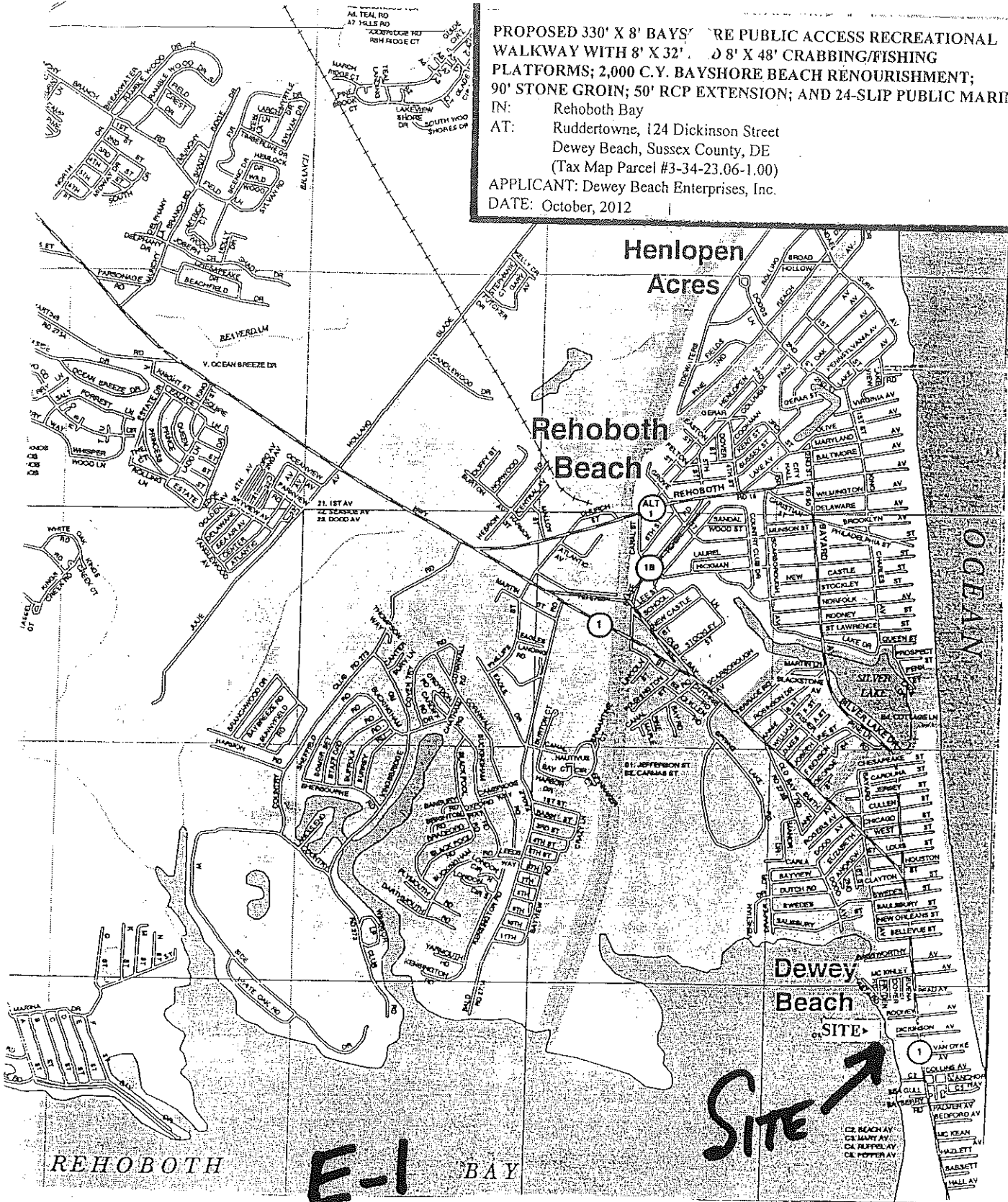
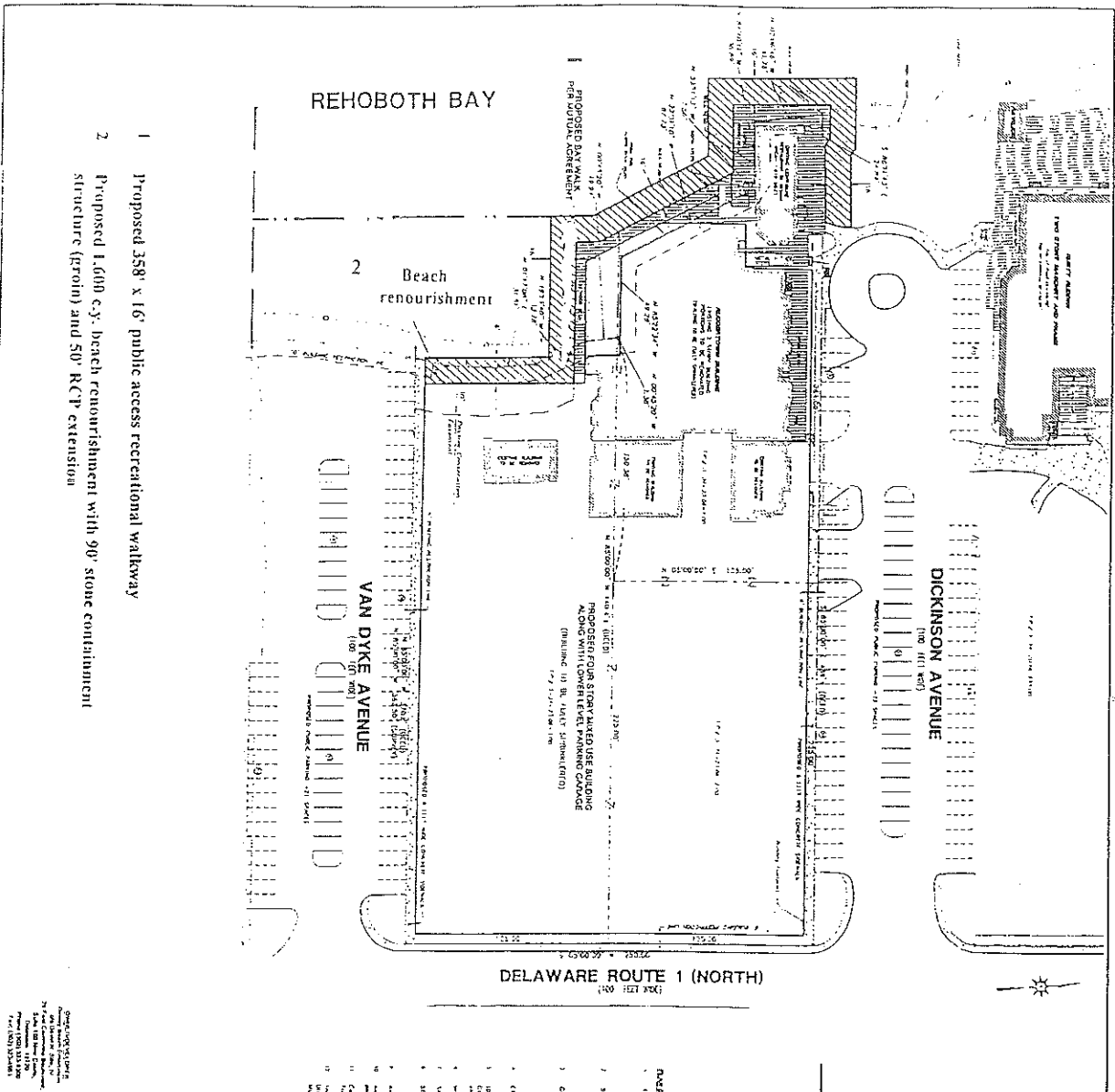


Figure 2. Map of Dewey Beach showing site location. Ruddertowne Complex, located on the west side of Coastal Highway (Route 1), between Dickinson Avenue and Van Dyke Avenue. Directions to site (from Dover, DE): SR-1 southbound to Dewey Beach; right onto Dickinson Avenue. Site is along Rehoboth Bay shoreline between Dickinson Avenue and Van Dyke Avenue.

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- 1 Proposed 358' x 16' public access recreational walkway
- 2 Proposed 1,600 c.y. beach renourishment with 90' stone containment structure (groin) and 50' RCP extension

Figure 12A.

Plan view of Ruddertowne Complex showing (revised) proposed 358' x 16' bayside public access recreational walkway ("Baywalk"). Proposed 1,600 c.y. beach renourishment project with 90' stone containment structure (groin) and 50' outfall pipe extension as originally proposed. Two proposed crabbing/fishing platforms (8' x 32' and 8' x 48') and proposed 24-slip public marina have been eliminated. (Base survey prepared by McBride & Ziegler, Inc.)

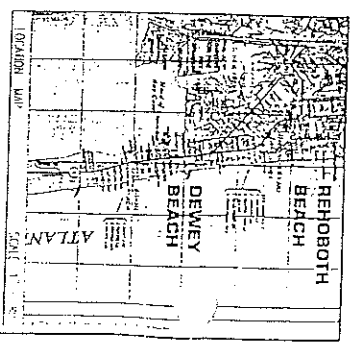
**PROPOSED 358' X 16' BAYSHORE PUBLIC ACCESS RECREATIONAL WALKWAY; 1,600 C.Y. BAYSHORE PUBLIC BEACH RENOURISHMENT; 90' STONE GROIN; 50' RCP EXTENSION**  
 IN: Rehoboth Bay  
 AT: Ruddertowne, 124 Dickinson Street  
 Dewey Beach, Sussex County, DE  
 (Tax Map Parcel #3-34-23.06-1.00)  
 APPLICANT: Dewey Beach Enterprises, Inc.  
 DATE: Revised February, 2013

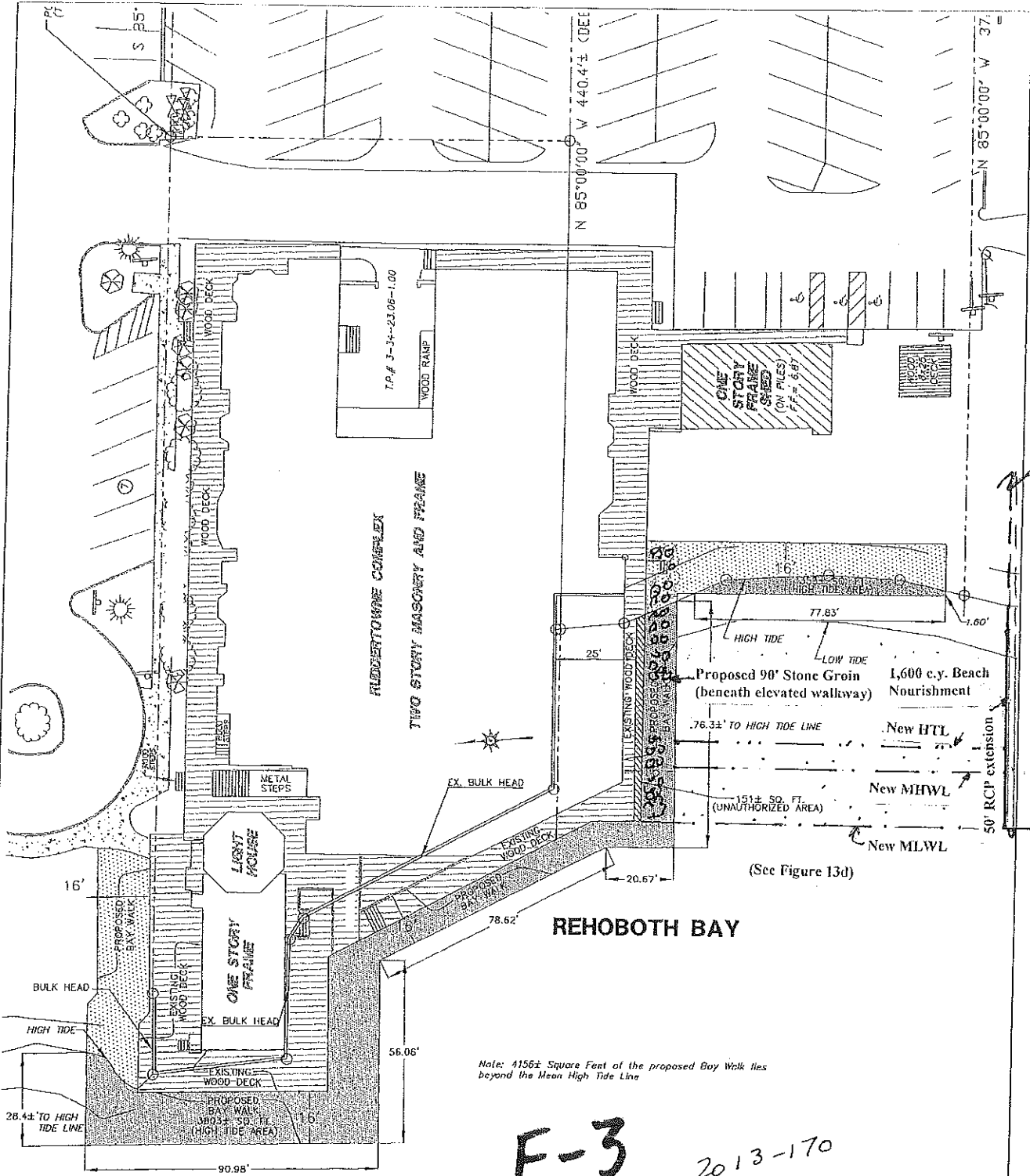
DEWEY BEACH ENTERPRISES  
 124 DICKINSON STREET  
 REHOBOTH BEACH, DE 19970  
 (302) 325-1100  
 (302) 325-1101  
 (302) 325-1102

| NO. | DATE     | REVISION              |
|-----|----------|-----------------------|
| 1   | 02/20/13 | ISSUED FOR PERMITTING |
| 2   | 02/20/13 | ISSUED FOR PERMITTING |
| 3   | 02/20/13 | ISSUED FOR PERMITTING |
| 4   | 02/20/13 | ISSUED FOR PERMITTING |
| 5   | 02/20/13 | ISSUED FOR PERMITTING |
| 6   | 02/20/13 | ISSUED FOR PERMITTING |
| 7   | 02/20/13 | ISSUED FOR PERMITTING |
| 8   | 02/20/13 | ISSUED FOR PERMITTING |
| 9   | 02/20/13 | ISSUED FOR PERMITTING |
| 10  | 02/20/13 | ISSUED FOR PERMITTING |
| 11  | 02/20/13 | ISSUED FOR PERMITTING |
| 12  | 02/20/13 | ISSUED FOR PERMITTING |
| 13  | 02/20/13 | ISSUED FOR PERMITTING |
| 14  | 02/20/13 | ISSUED FOR PERMITTING |
| 15  | 02/20/13 | ISSUED FOR PERMITTING |
| 16  | 02/20/13 | ISSUED FOR PERMITTING |
| 17  | 02/20/13 | ISSUED FOR PERMITTING |
| 18  | 02/20/13 | ISSUED FOR PERMITTING |
| 19  | 02/20/13 | ISSUED FOR PERMITTING |
| 20  | 02/20/13 | ISSUED FOR PERMITTING |

**M & Z**  
 MORGAN & ZIEGLER, INC.  
 1000 MARKET STREET, SUITE 100  
 DEWEE BEACH, DE 19970  
 (302) 325-1100  
 (302) 325-1101  
 (302) 325-1102

2013-170  
 E-2





**PROPOSED BAY WALK DIMENSION EXHIBIT PLAN**  
 OF  
**RUDDERTOWN MIXED USE COMPLEX**  
 PREPARED FOR  
**DEWEY BEACH ENTERPRISES**  
 REHOBOTH HUNDRED, SUSSEX COUNTY, DELAWARE

|                          |  |                 |
|--------------------------|--|-----------------|
| <b>M<br/>&amp;<br/>Z</b> | <b>McBRIDE &amp; ZIEGLER, INC.</b>                           |                 |
|                          | LAND SURVEYORS PLANNERS ENGINEERS<br>NEWARK, DELAWARE, 19711 |                 |
|                          | PHONE (302) 737-9130 FAX (302) 737-2610                      |                 |
|                          | SURVEY BY: H&Z CHECKED BY: M.Z.                              |                 |
| DESIGN BY: .             |  | SCALE: 1" = 40' |
| DRAWN BY: .              |  | DATE: 4/5/2013  |
| DWG. NO.: 20074313       |  | SHEET 1 OF 1    |

Figure 13c.

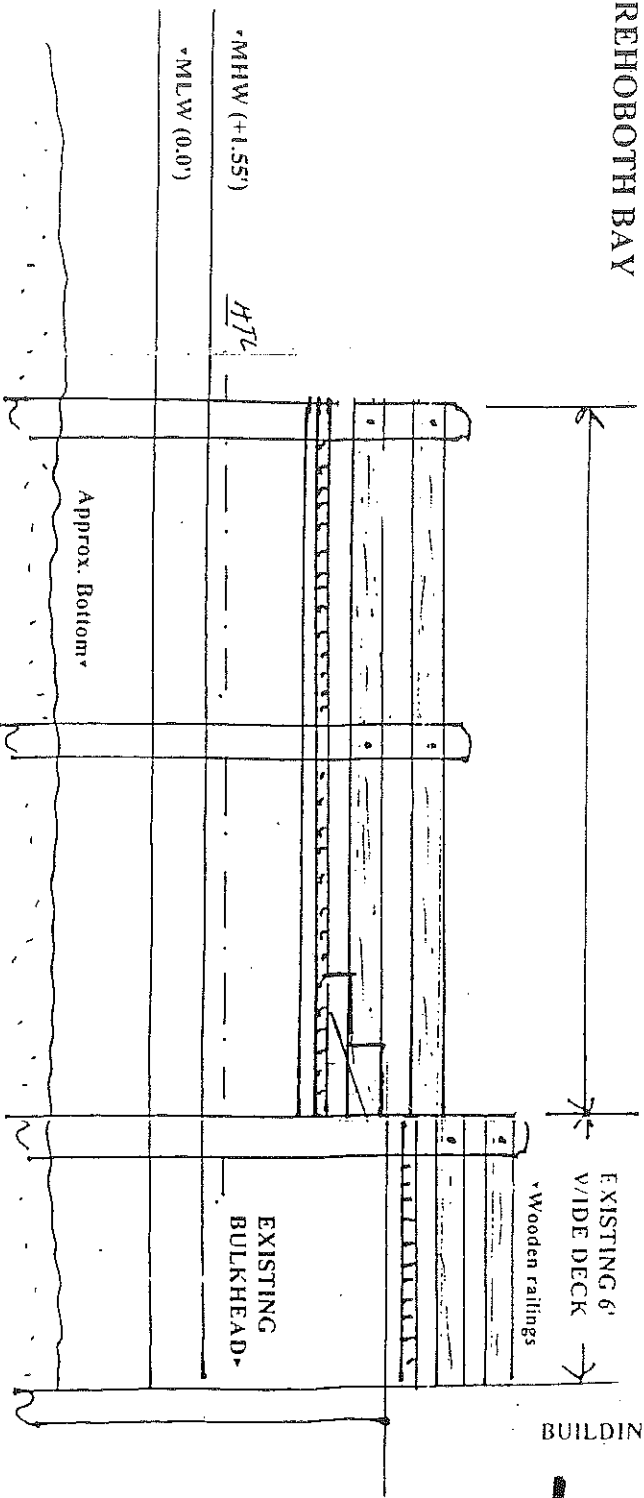
0' 41'  
SCALE  
1" = 41'

WEST

A'

REHOBOTH BAY

PROPOSED 358' x 16' PUBLIC ACCESS  
RECREATIONAL WALKWAY



EAST

PROPOSED 358' X 16' BAYSHORE PUBLIC ACCESS  
RECREATIONAL WALKWAY; 1,600 C.Y. BAYSHORE  
PUBLIC BEACH RENOURISHMENT;  
90' STONE GROIN; 50' RCP EXTENSION  
IN: Rehoboth Bay  
AT: Rudderowne, 124 Dickinson Street  
Dewey Beach, Sussex County, DE  
(Tax Map Parcel #3-34-23.06-1.00)  
APPLICANT: Dewey Beach Enterprises, Inc.  
DATE: Revised February, 2013

E-4 2013-170

Figure 14A. Cross-section, proposed 358' x 16' bayshore public access recreational walkway. Diagram for application purposes only.

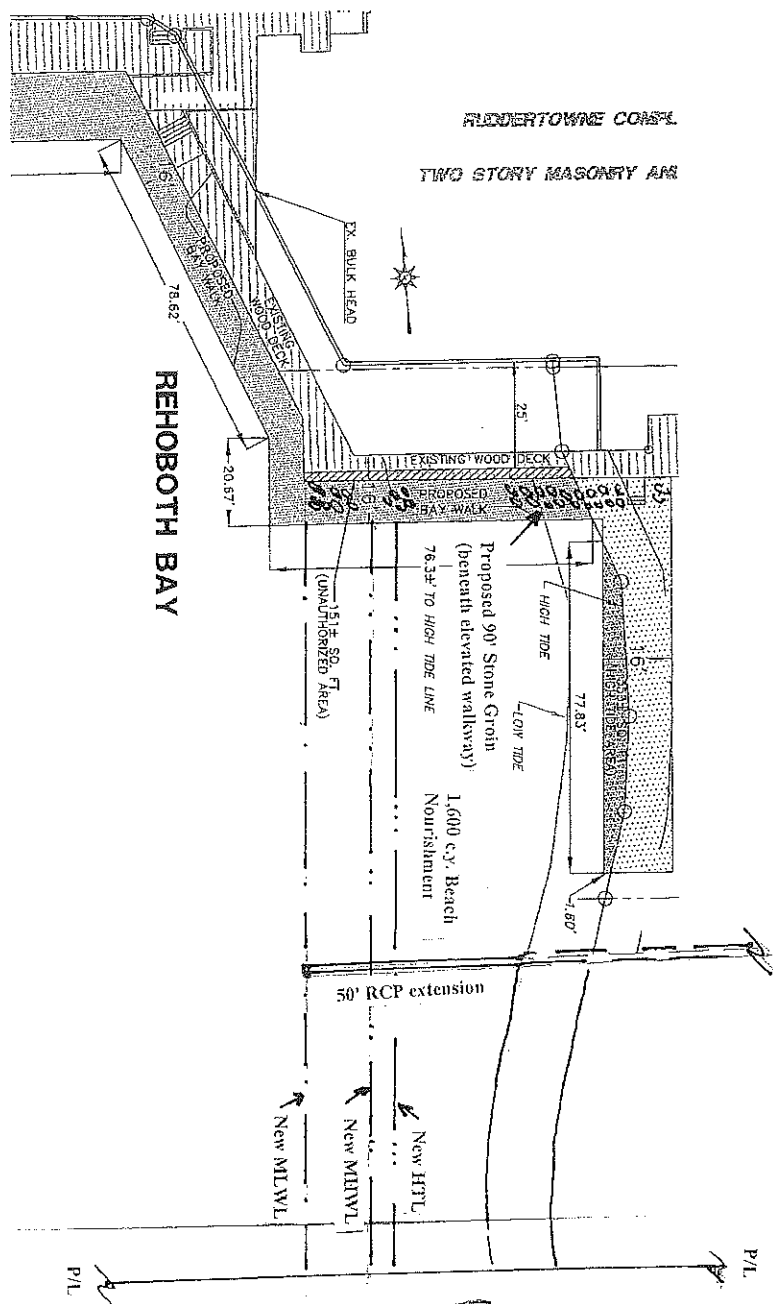


Figure 13d.

**E-5**

2013-170