Public Notice

U.S. Army Corps of Engineers, Norfolk District

July 3, 2008

CENAO-REG
NAO-2007-03325_08-V0946

FEDERAL PUBLIC NOTICE

The District Commander has received a joint application for Federal and State permits as described below:

APPLICANT
Mr. John Britt
P.O. Box 856
West Point, Virginia 23181

WATERWAY AND LOCATION OF THE PROPOSED WORK: The project site is located east of Cooks Mill Road across from Lee Marsh in New Kent County, Virginia. The project will take place within the Pamunkey River, a tributary to the York River.

PROPOSED WORK AND PURPOSE: The applicant proposes to impact 5,496 square feet of non-tidal wetlands, 1,311 square feet of vegetated tidal wetlands, 522 square feet of non-vegetated tidal wetlands, and 901 square feet of subaqueous bottom for the construction of Piney Point Boat Landing. The impacts will result from the construction of an access road with parking, concrete ramp, PVC sheet pile jetties, and open pile tending pier. The facility will provide private community services to a future upland residential development at the project site. The proposed landing will not provide for permanent mooring. To offset unavoidable impacts, the applicant has proposed to purchase wetland credits from an approved mitigation bank.

In addition to the required Department of the Army permit, the applicant must obtain a Virginia Water Protection Permit/401 certification from the Virginia Department of Environmental Quality assuring that applicable laws and regulations pertaining to water quality are not violated and a permit from the New Kent County Wetlands Board. Project drawings are attached.

AUTHORITY: Permits are required pursuant to Section 10 of the Rivers and Harbors Act of 1899 (33 U.S.C. 403), Sections 401 and 404 of the Clean Water Act (Public Law 95-217) and Title 62.1 of the Code of Virginia.

FEDERAL EVALUATION OF APPLICATION: The decision whether to issue a permit will be based on an evaluation of the probable impact including cumulative impacts of the proposed activity on the public interest. The decision will reflect the national concern for both protection and utilization of important resources. The benefits which reasonably may be expected from the proposal must be balanced against its reasonably foreseeable detriments. All of the proposal's relevant factors will be considered, including conservation, economics, aesthetics, general environmental concerns, wetlands, cultural values, fish and wildlife values, flood hazards, flood plain values, land use classification, navigation, shoreline erosion and accretion, recreation, water supply and conservation, water quality, energy needs, safety, food and fiber production, mineral

needs, consideration of property ownership and, in general, the needs and welfare of the people. The Environmental Protection Agency's "Guidelines for Specification of Disposal Sites for Dredged or Fill Material" will also be applied (Section 404(b)(1) of the Clean Water Act).

The Corps of Engineers is soliciting comments from the public; Federal, state, and local agencies and officials; Indian Tribes; and other interested parties in order to consider and evaluate the impacts of this proposed activity. Any comments received will be considered by the Corps of Engineers to determine whether to issue, modify, condition or deny a permit for this proposal. To make this decision, comments are used to assess impacts on endangered species, historic properties, water quality, general environmental effects, and the other public interest factors listed above. Comments are used in the preparation of an Environmental Assessment and/or an Environmental Impact Statement pursuant to the National Environmental Policy Act. Comments are also used to determine the need for a public hearing and to determine the overall public interest of the proposed activity. Anyone may request a public hearing to consider this permit application by writing to the District Commander within 30 days of the date of this notice, stating specific reasons for holding the public hearing. The District Commander will then decide if a hearing should be held.

Preliminary review indicates that: (l) no environmental impact statement will be required; (2) no species of fish, wildlife, or plant (or their critical habitat) listed as endangered or threatened under the Endangered Species Act of 1973 (PL 93-205) will be affected; and (3) no known properties eligible for inclusion or included in the National Register of Historic Places are in or near the permit area, or would likely be affected by the proposal. Additional information might change any of these findings. For compliance with the Coastal Zone Management Act of 1972, as amended, the applicant must certify that federally licensed or permitted activities affecting Virginia's coastal zone (Tidewater) will be conducted in a manner consistent with the Virginia Coastal Resources Management Program (VCP). For more information or to obtain a list of the enforceable programs of the VCP, contact the Department of Environmental Quality, Office of Environmental Impact Review at (804) 698-4330 or e-mail: elirons@deq.virginia.gov.

The Magnuson-Stevens Fishery Conservation and Management Act, as amended by the Sustainable Fisheries Act of 1996 (Public Law 104-267), requires all Federal agencies to consult with the National Marine Fisheries Service on all actions, or proposed actions, permitted, funded, or undertaken by the agency, that may adversely affect Essential Fish Habitat (EFH). As this area does not include EFH, the Pamunkey River is used by anadromous fish. The habitat that this project would affect consists of inter-tidal freshwater vegetated and non-vegetated wetlands and open water subaqueous bottom with a depth range from 0 to -5 feet at mean low water. No submerged aquatic vegetation will be impacted. The proposed project is described in <u>Proposed Work and Purpose</u>, above. Our assessment of the project leads us to a preliminary determination that it will not have a substantial adverse effect on EFH and therefore expanded EFH consultation is not required. Our rationale for this preliminary determination is based on the expected short-term nature of the direct impacts, minimal increases in turbidity, changes in water temperature or salinity caused by the proposed work, the absence of submerged aquatic vegetation. Impacts to anadromous fish migration to upstream waters will not be affected since the River is approximately 750 feet wide at the project location. If determined necessary, time of year restrictions may be conditioned to any permit issuance for the purpose of minimizing impacts during construction. Based on comments from the National Marine Fisheries Service in response to this public notice, further EFH consultation may be necessary.

COMMENT PERIOD: Comments on this project should be made in writing, addressed to the Norfolk District, Corps of Engineers (ATTN: CENAO-REG), 803 Front Street, Norfolk, Virginia 23510-1096, and should be received by the close of business on August 4, 2008.

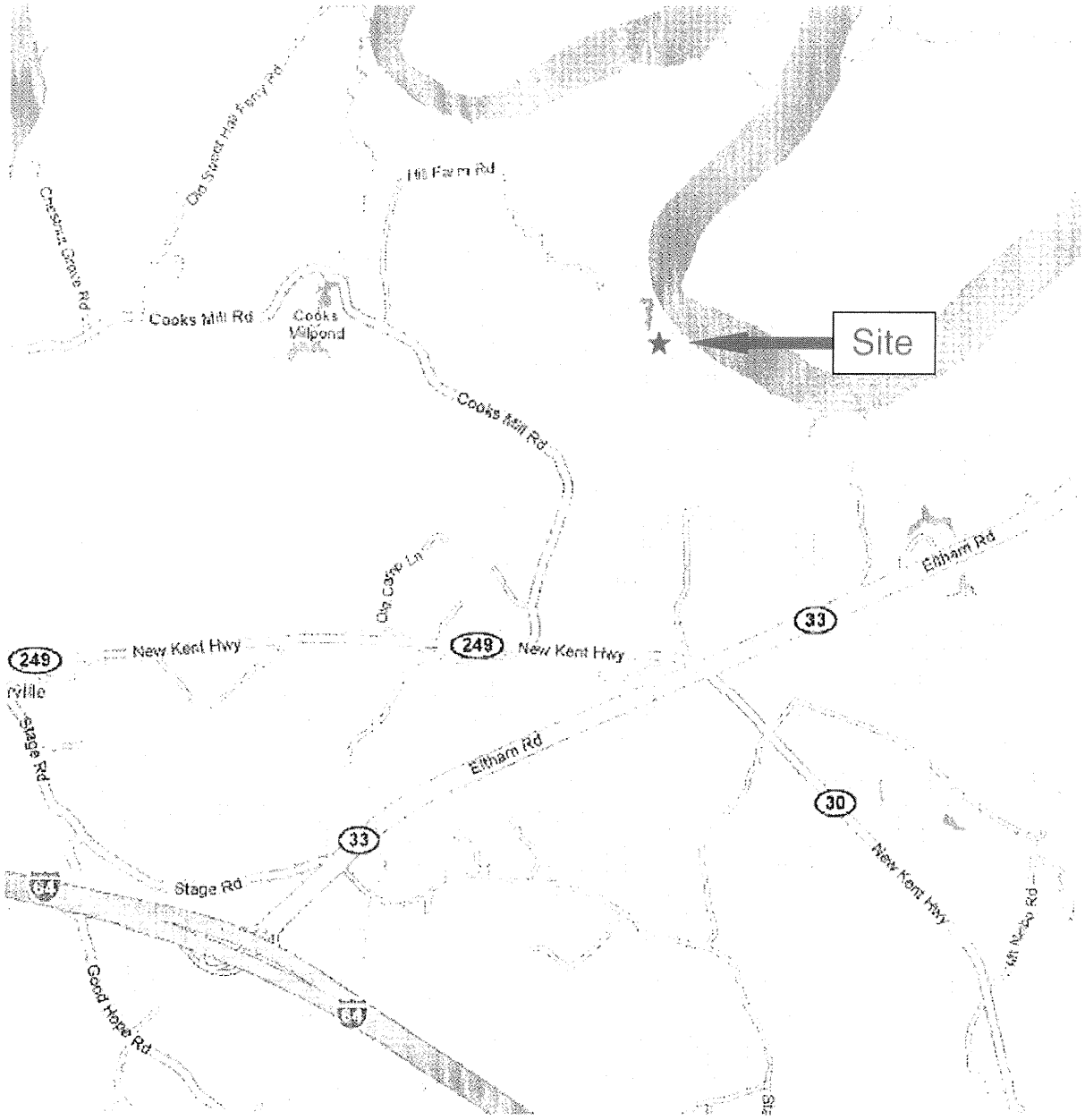
If you have any questions about this project or the permit process, please contact Mr. Randy Steffey at (757) 201-7327 or by email at randy.l.steffey@usace.army.mil .

FOR THE DISTRICT COMMANDER:

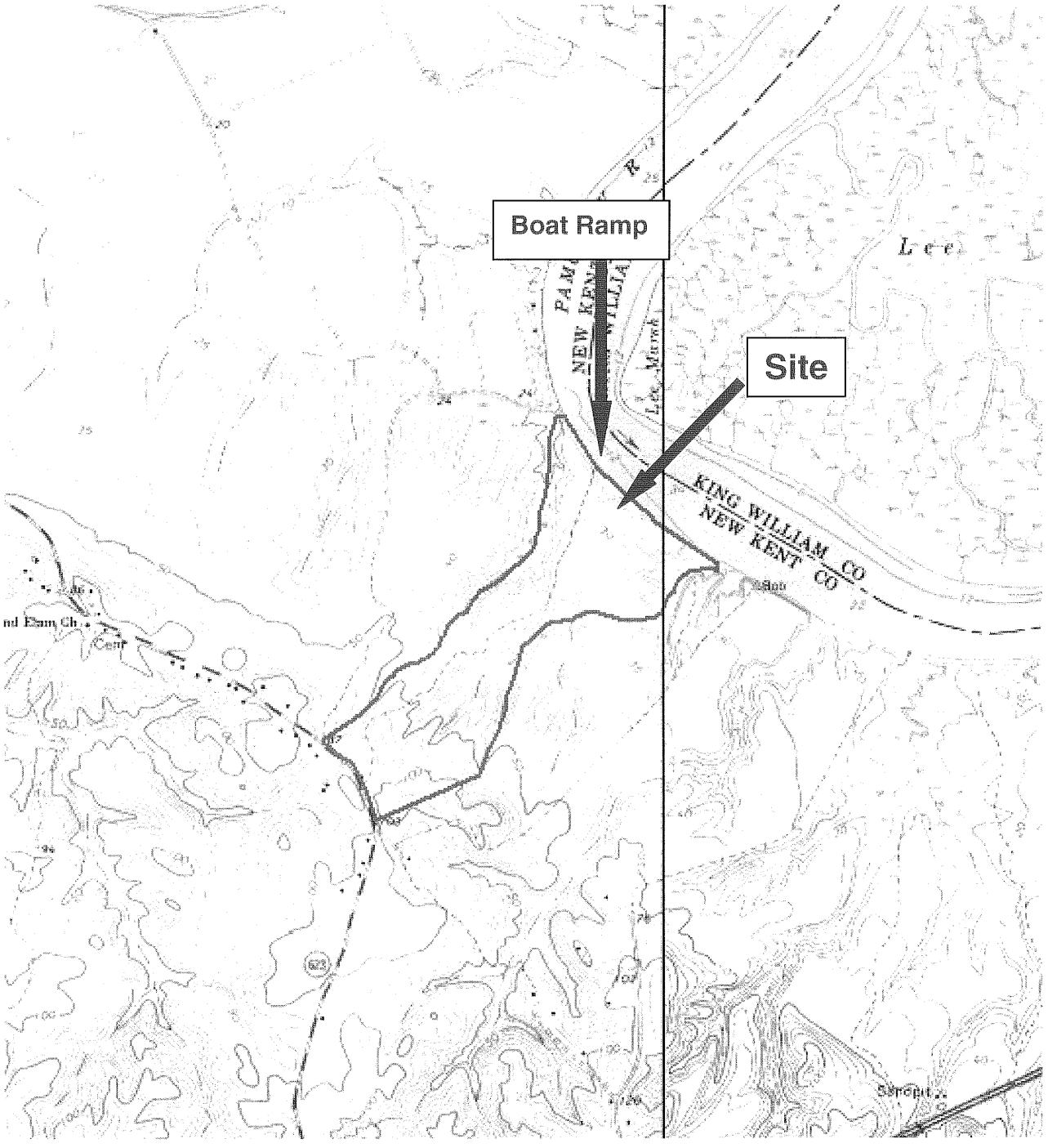
for Randy L. Steffey

Lynette R. Rhodes
Chief, Southern Virginia
Regulatory Section

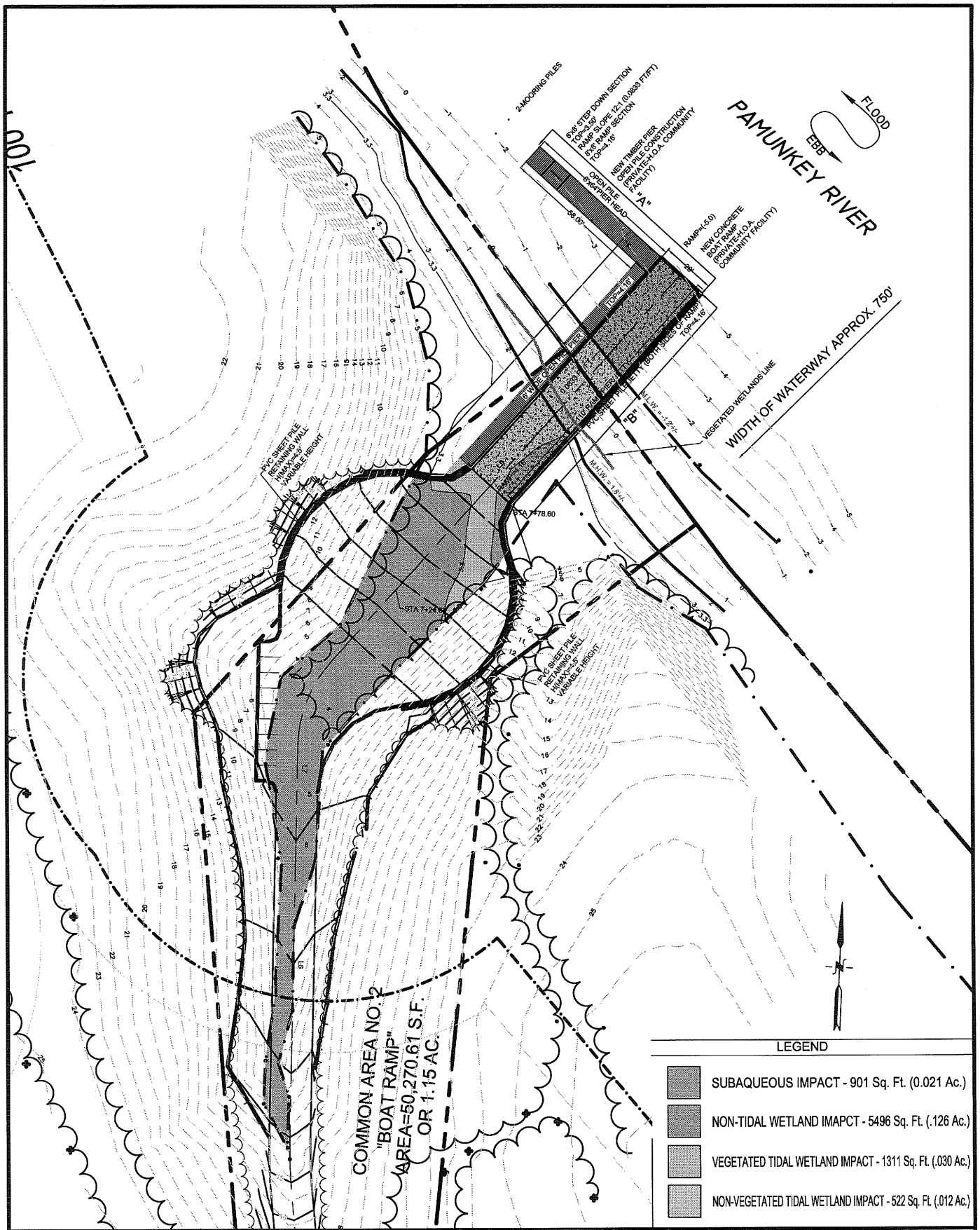
Attachment: Drawings



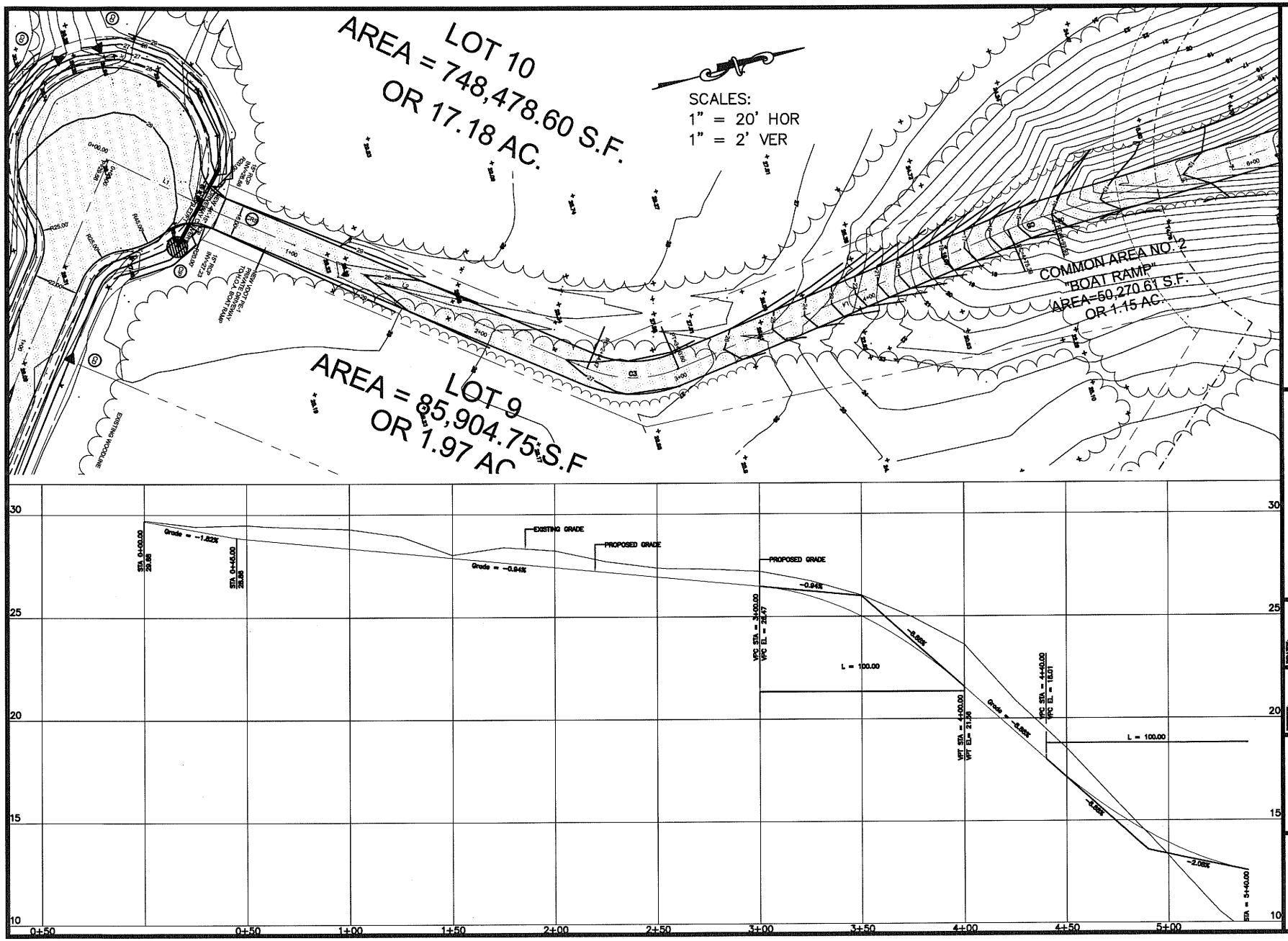
KOONTZ-BRYANT, P.C. Site Solutions from Concept to Construction	Date: May 13, 2008 USGS: West Point
LOCATION MAP Piney Pointe Subdivison – Boat Ramp New Kent County, VA	Latitude: 37° 31' 43" N Longitude: 76° 52' 40" W Scale: n/a



KOONTZ-BRYANT, P.C. Site Development Solutions	Date: May 13, 2008 USGS: West Point
TOPOGRAPHIC MAP Piney Pointe Subdivision – Boat Ramp New Kent County, VA	Latitude: 37° 31' 43" N Longitude: 76° 52' 40" W Scale: 1" = 2000'



PINEY POINTE BOAT LANDING NEW KENT COUNTY, VA	PLAN VIEW SCALE 1" = 50'	BOAT RAMP (PERMANENT) SHEET 1 OF 3 DATE: APRIL 7, 2008 REVISED: JUNE 23, 2008



MITCHELL-WILSON ASSOCIATES, P.C.
CIVIL ENGINEERS & LAND SURVEYORS
3560 KING WILLIAM AVENUE
P.O. BOX 1269
WEST POINT, VIRGINIA 23181-1269
(804) 843-9744

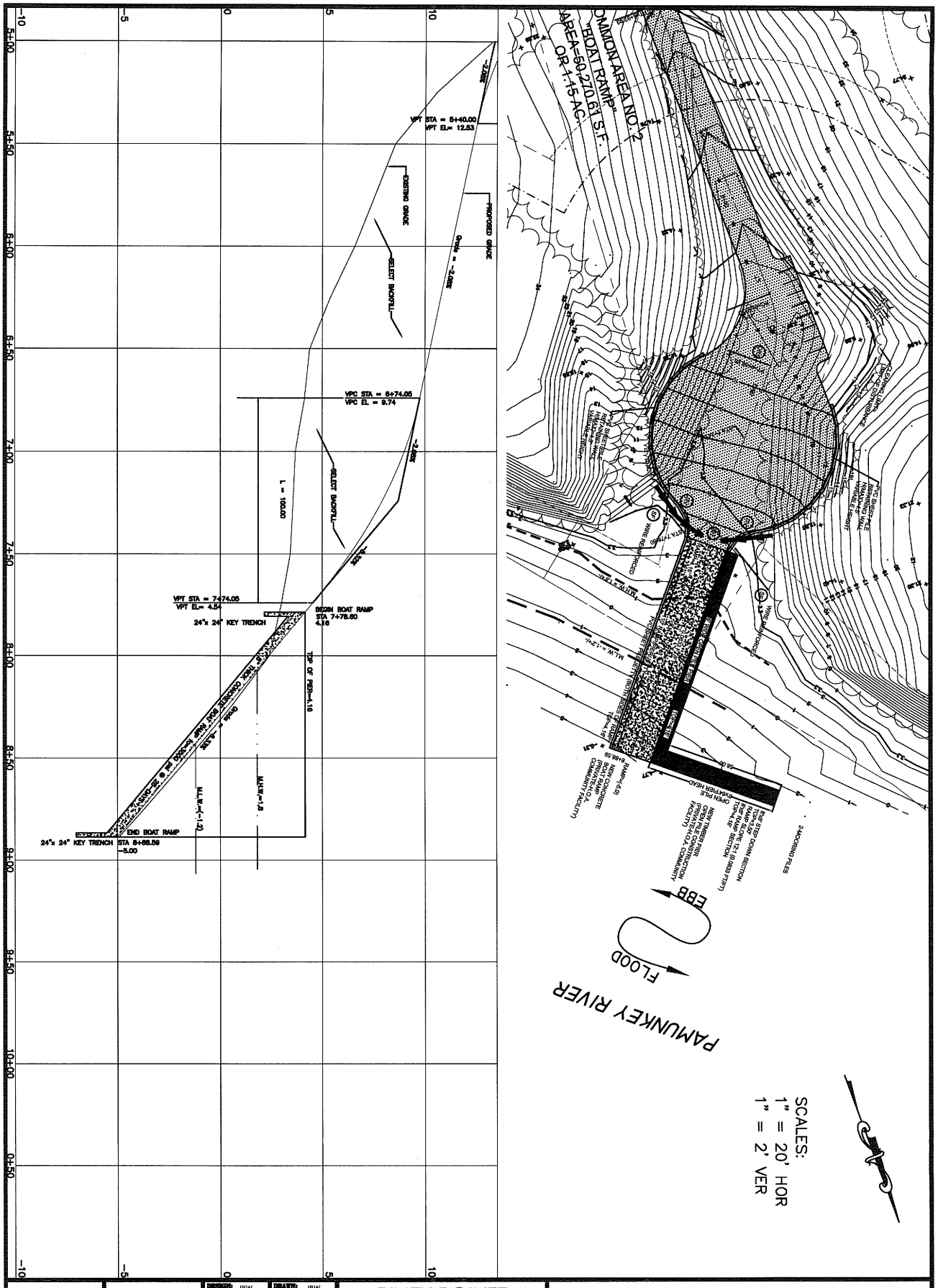
PINEY POINTE LANDING

ROAD CONSTRUCTION PLAN
MWA PROJECT No. 2410
WEIR CREEK MAGISTERIAL DISTRICT
NEW KENT COUNTY, VIRGINIA

DESIGNER: JBW	DRAWN: JBW
REVISIONS:	
DATE: 3-31-08	SCALE: 1" = 20'
SHEET	C19

03-31-08

ROAD PLAN & PROFILE



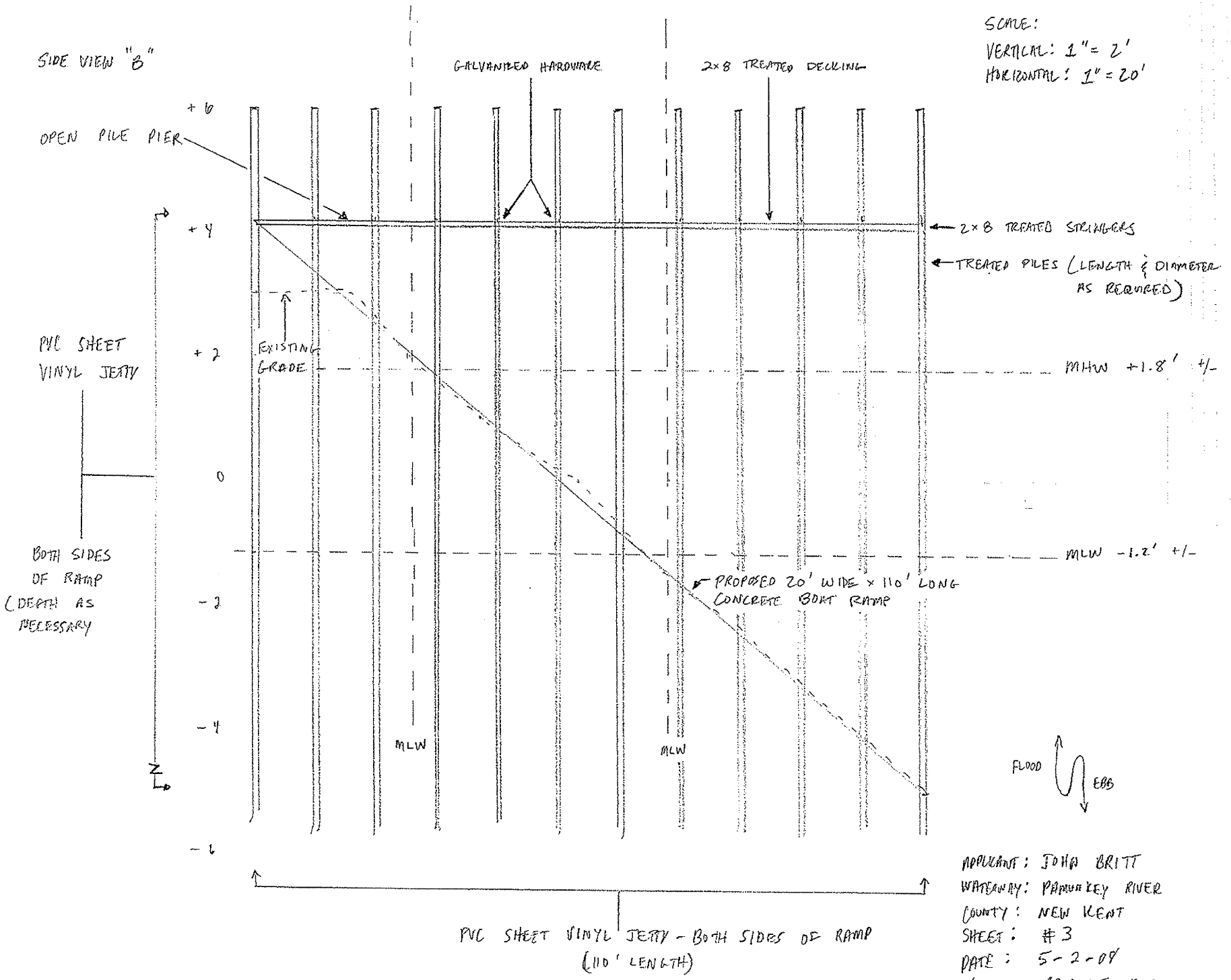
DESIGN: JBW	DRAWN: JBW	PINEY POINTE LANDING	MITCHELL–WILSON ASSOCIATES, P.C.
REVISIONS:		ROAD CONSTRUCTION PLAN	CIVIL ENGINEERS & LAND SURVEYORS
DATE: 3-31-08	SCALE: 1" = 20'	MWA PROJECT No. 2410	3560 KING WILLIAM AVENUE
SHEET	C20	WEIR CREEK MAGISTERIAL DISTRICT	P.O. BOX 1269
		NEW KENT COUNTY, VIRGINIA	WEST POINT, VIRGINIA 23181-1269
			(804) 843-9744

03-31-08

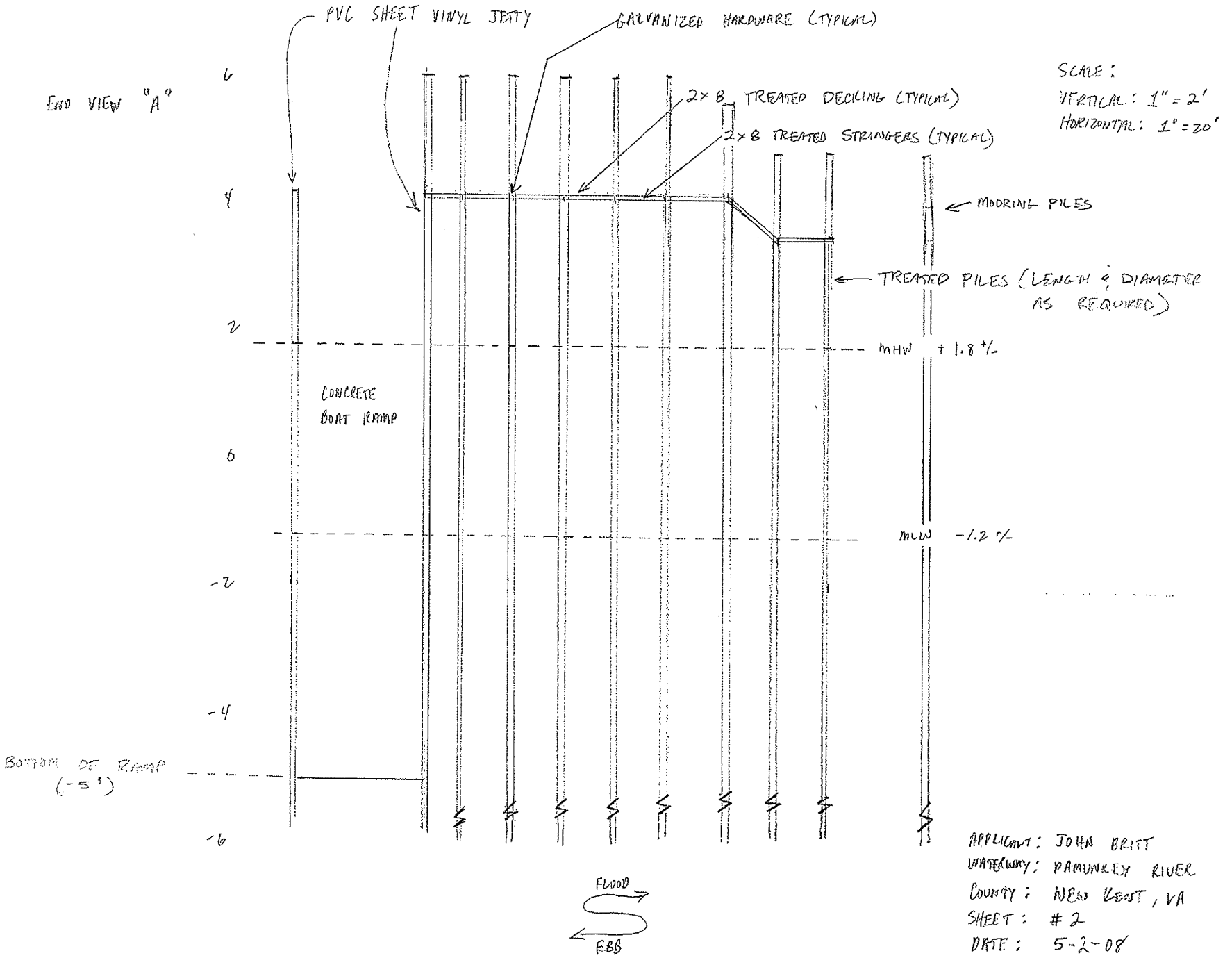
BOAT RAMP PLAN & PROFILE

SIDE VIEW "B"

SCALE:
VERTICAL: 1" = 2'
HORIZONTAL: 1" = 20'



APPLICANT: JOHN BRITT
WATERWAY: PAMUNKEY RIVER
COUNTY: NEW KENT
SHEET: #3
DATE: 5-2-09
KOONTZ-BRYANT, P.C.



APPLICANT: JOHN BRITT
WATERWAY: PAMUNKEY RIVER
COUNTY: NEW KENT, VA
SHEET: # 2
DATE: 5-2-08
KOONTZ - BRYANT, P.C.