

Brooke Sullivan

From: Greg Stein <gstein@wfdi.net>
Sent: Tuesday, April 2, 2024 12:17 PM
To: Brooke Sullivan
Subject: Fwd: Port of Friday Harbor questions
Attachments: ROS AF2021-0901035 20-080023 AMD.pdf

You don't often get email from gstein@wfdi.net. [Learn why this is important](#)

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Begin forwarded message:

From: "Nealer, Cailan (DNR)" <Cailan.Nealer@dnr.wa.gov>
Subject: RE: Port of Friday Harbor questions
Date: October 26, 2022 at 5:22:37 PM PDT
To: Greg Stein <gstein@wfdi.net>
Cc: "Harder, Gabriel (DNR)" <Gabriel.Harder@dnr.wa.gov>, Francine Shaw <fshaw@rockisland.com>

Hi Greg,

I think it is important to recognize that this area has changed hands from private entities to a public entity. The Port has legislative authority to enter into a Port Management Agreement (PMA) with DNR to managed state owned aquatic lands on behalf of the State per [RCW 79.105.420](#) and [WAC 332-30-114](#). This area was formerly leased by private parties without those legislative authorities. Under the previous private party scenario, the leasehold area square footage is used to determine rents. Therefore, the original leasehold areas would have been strategically the smallest footprint possible. A lease provides for mostly exclusive use of the leasehold area except for those rights afforded to the public via the Public Trust Doctrine and some other rights (e.g. State can provide easements and other instruments if compatible with the use, and so on).

The relationship as it currently exists between the Port and DNR is different. The Port, as provided by the legislature, is allowed to manage state owned aquatic lands adjacent to their upland properties. When the purchases in this area occurred, the Port expanded their PMA to encompass the larger area eligible for inclusion in the PMA under the law. Under a PMA, Ports are not charged for water-dependent uses (like marinas) as a regular Tenant would be - only non-water dependent uses – so the interest in being conservative in the square footage of the management area does not hold when dealing with a PMA like it would with private parties and/or standard DNR leases. In fact, importantly, the PMA is not a lease at all – it is a delegation of authority from DNR to the Port.

The Port is still required, per the PMA with DNR, to follow the same RCWs and WACs regarding the management of state owned aquatic lands that DNR follows. The Port cannot keep you from accessing your waterfront property. However, it does give them the ability to plan and manage the uses in the area (as long as it meets the RCWs and WACs laid out for state owned aquatic lands).

Your best resource regarding the motives of the PMA area expansion would be the Port. However, it appears from the Record of Survey that the PMA boundary was expanded (as allowed through their legislative authority) in order to facilitate the waterward expansion and redevelopment of the existing marinas.

I hope this gives you a little more insight into the changes in this area.

Thank you,

Cailan Nealer (*she/her*)
Ports Program Manager
Aquatic Resources Division
Washington State Department of Natural Resources (DNR)
1111 Washington St SE Olympia, WA 98501
Cell: (360) 790-3508 | Fax: (360) 902-1786
Cailan.nealer@dnr.wa.gov
www.dnr.wa.gov

From: Greg Stein <gstein@wfdi.net>
Sent: Wednesday, October 26, 2022 3:43 PM
To: Nealer, Cailan (DNR) <Cailan.Nealer@dnr.wa.gov>
Cc: Harder, Gabriel (DNR) <Gabriel.Harder@dnr.wa.gov>; Francine Shaw <fshaw@rockisland.com>
Subject: Re: Port of Friday Harbor questions

External Email

I need to talk to whoever changed this line from it's previous location. If it does not make any difference where the line is, then why was it moved? What are ramifications of the location of this line? Please forward name and contact information for whoever made the decision to move this line.

Thanks for all your help in this matter,

Greg

On Oct 26, 2022, at 3:56 PM, Nealer, Cailan (DNR) <Cailan.Nealer@dnr.wa.gov> wrote:

Mr. Stein,

Thank you for the call the other day. I looked into the boundary line we discussed and as I assumed, the Port and their surveyors used an apportionment based on the size and shape of the bay to determine the line.

In thinking about your concerns regarding the line, I did want to clarify that no matter where the line is, you have the ability to ingress and egress through the area to get to your property as protected by the Public Trust Doctrine.

Thanks again,

Cailan Nealer (*she/her*)
Ports Program Manager
Aquatic Resources Division
Washington State Department of Natural Resources (DNR)
1111 Washington St SE Olympia, WA 98501
Cell: (360) 790-3508 | Fax: (360) 902-1786
Cailan.nealer@dnr.wa.gov
www.dnr.wa.gov

From: Harder, Gabriel (DNR) <Gabriel.Harder@dnr.wa.gov>
Sent: Friday, October 21, 2022 11:43 AM
To: gstein@wfdi.net
Cc: Nealer, Cailan (DNR) <Cailan.Nealer@dnr.wa.gov>
Subject: Port of Friday Harbor questions

Mr. Stein,

Thank you for contacting DNR about the Port Management Agreement for the Port of Friday Harbor and the Shipyard Cove facilities now owned by the Port. I'm sorry I wasn't able to answer your questions. Cailan Nealer is the Land Manager for the PMA's and can be reached at 360-790-3508 or by email - I have copied her on this email. There is some information available on our website here: <https://www.dnr.wa.gov/programs-and-services/aquatics/aquatics-leasing-and-licensing/ports>

Kind Regards,

Gabe Harder
Aquatic Land Manager
Washington State Department of Natural Resources (DNR)
919 N. Township St.
Sedro-Woolley, WA 98284
Cell (360) 630-1297
gabriel.harder@dnr.wa.gov
www.dnr.wa.gov

EQUIPMENT AND PROCEDURES

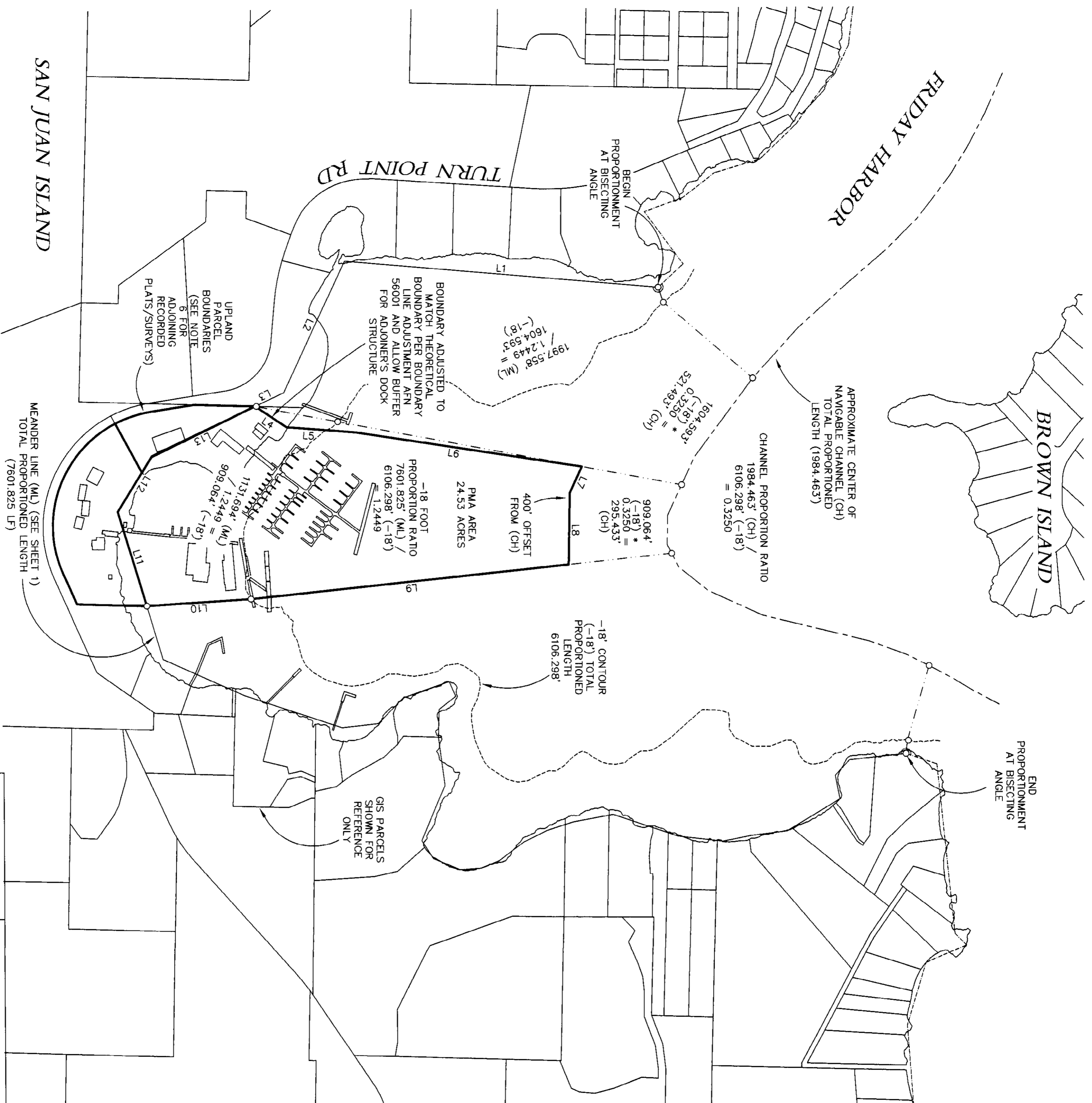
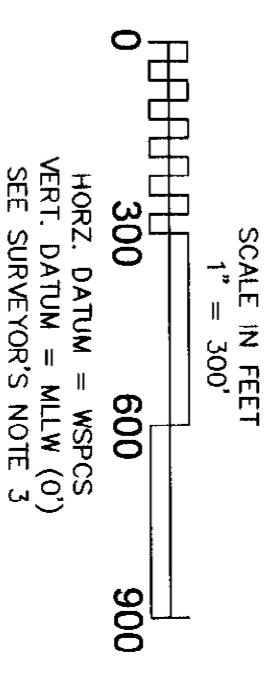
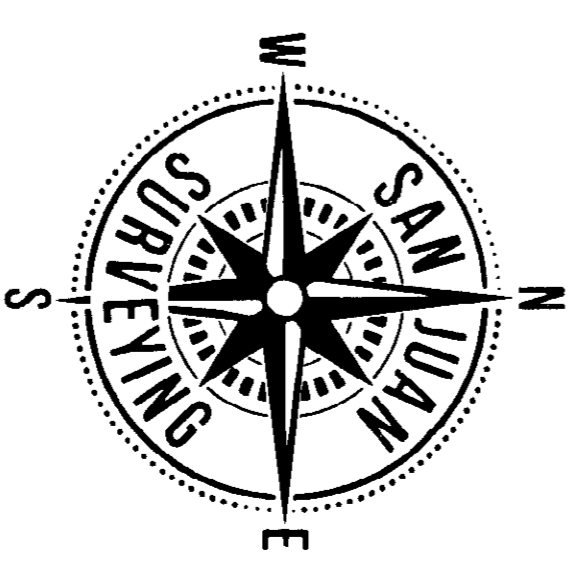
EQUIPMENT: TOPCON ROBOTIC TOTAL STATION (PS103A)
 HIPER V GPS DUAL FREQUENCY GNSS RECEIVER W/ BASE STATION
 SEAFLOOR HYDROLITE DEPTH SOUNDER
 PROCEDURE: FIELD TRAVERSE & SOUNDINGS

LEGEND

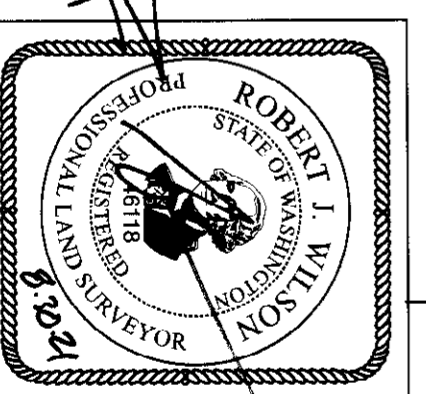
○ CALCULATED ANGLE POINT

LINE TABLE

N/M	BEARING	DISTANCE
L1	S 5°05'12"W	1281.06'
L2	S65°05'18"E	588.18'
L3	S25°23'17"E	128.30'
L4	N33°52'33"E	152.11'
L5	N4°41'36"E	284.03'
L6	N 8°53'43"E	927.48'
L7	S65°01'42"E	117.77'
L8	S88°49'15"E	291.75'
L9	S 5°52'36"E	1297.18'
L10	S 3°32'02"E	424.61'
L11	S73°12'40"W	401.00'
L12	N58°20'50"W	264.35'
L13	N25°23'17"W	466.34'



LATERAL BOUNDARY PROPORTION CALCULATIONS



PMA AMENDMENT 20-080023
 FOR
PORT OF FRIDAY HARBOR
 ON
SAN JUAN ISLAND

SAN JUAN SURVEYING
 P.O. BOX 611
 FRIDAY HARBOR, WA 98750
 WWW.SANJUANSURVEYING.COM

AUDITORS INDEXING DATA

DRAWN BY: NSR	COMP REF: 18-067 (PMA)	JOB NO: 18-067	
CHECKED BY: RJW	DATE: 8/30/21	SHEET 2 OF 5	
QUARTER / QUARTER	SECTION	TOWNSHIP	RANGE
GL-6	13	35 NORTH	3 WEST

PMA NARRATIVE

DETERMINATION OF THE UPLAND BOUNDARY FOR THE PMA:

IN THE 1930'S THE UPLAND AREAS OF THE SUBJECT PARCELS WERE EXTENDED SEAWARD BY HYDROEXCAVATING THE HILLSIDE ABOVE SAID PARCELS AND ALLOWING THE EXCAVATED SOIL AND MATERIALS TO ACCRETE ALONG THE EXISTING SHORELINE FOR THE PURPOSES OF EXPANDING THE USEABLE AREA OF SHORELAND. THIS PROCESS OF ADDING FILL MATERIAL ALTERED THE NATURAL BOUNDARIES OF ALL TIDELANDS JURISDICTIONAL LIMITS IN FRONT OF SAID PARCELS. IN A TIDELANDS AND BOTTOMLANDS LEASE SURVEYED PRODUCED BY JEFFREY IVERSON, PLS 18905, DATED OCTOBER 30, 1997 AND RECORDED IN BOOK 14 OF SURVEYS, PAGE 136, RECORDS OF SAN JUAN COUNTY, WASHINGTON, WHICH APPLIES TO THE EASTERLY SUBJECT PARCEL, THE UPLAND LIMIT OF THE PMA AREA IS DEFINED AS THE "MEANDER LINE OR THE LINE OF ORDINARY HIGH TIDE - WHICHEVER IS FURTHER SEAWARD" BUT SHOWS THE LINE OF ORDINARY HIGH TIDE AS INFLUENCED BY SAID FILL AND ALSO BY BUILT STRUCTURES. DUE TO THE AMBIGUITY OF THE NATURAL LOCATION OF THE LINE OF ORDINARY HIGH TIDE, FOR THIS SURVEY SOLELY THE MEANDER LINE IS USED TO DEFINE THE UPLAND LIMIT OF THE PMA. THIS METHODOLOGY AGREES WITH A PREVIOUS LEASE AGREEMENT (DNR #10492) FOR THE WESTERLY SUBJECT PARCEL PRODUCED BY KRABBE & STARR WHICH WAS UNRECORDED.

DETERMINATION OF LATERAL LINES FOR THE PMA:

FOR THE DETERMINATION OF THE LATERAL LINES AS SHOWN HEREON, MULTIPLE FACTORS WERE CONSIDERED - EXTENTS AND RIGHTS OF ADJOINING AND NEARBY UPLAND PARCELS, CHANNEL NAVIGABILITY, PORT OF FRIDAY HARBOR PROPOSED USES, THE EXISTING BOUNDARY LINE AGREEMENT WITH THE WESTERLY ADJOINER (AFN 56001), AND REASONABLE AND EQUITABLE APPORTIONMENT OF TIDELANDS AND BEDLANDS WITHIN THE IRREGULAR COVE. ALL PARCELS WITHIN THE PROPORTIONED AREA AS SHOWN ON SHEET 2 WILL RETAIN UNOBSTRUCTED ACCESS TO LANES OF NAVIGATION PROPORTIONATE TO THE EXTENTS OF THEIR UPLAND OWNERSHIP AND THE APPORTIONMENT IS CONSISTENT WITH THE EXISTING IMPROVEMENTS WITHIN THE BAY.

DETERMINATION OF THE SEAWARD EXTENT OF THE PMA:

AN APPROXIMATE LINE OF NAVIGATION WAS CALCULATED FOR THIS SURVEY FOR THE PURPOSE OF ENSURING AN EQUITABLE APPORTIONMENT OF TIDELANDS, BEDLANDS, ACCESS TO DEEP WATER, AND CONSISTENCY WITH EXISTING IMPROVEMENTS. AN APPROXIMATION OF THIS LINE AT -18.0' IS ADEQUATE TO APPROXIMATE THE WATERWARD EXTENT OF ADJOINING UPLAND PARCEL PREFERENTIAL RIGHTS. THE PROPOSED PORT MANAGEMENT AREA LIES DIRECTLY IN FRONT OF THE PORT OWNED UPLANDS CONSISTENT WITH PMA REQUIREMENTS. THE PROPOSED PMA EXTENDS WELL BEYOND THE BEDLAND AREAS SUBJECT TO PRIVATE PREFERENTIAL RIGHTS TO A LINE 400' LANDWARD OF THE APPROXIMATE CENTER OF THE NAVIGATION CHANNEL. THE 400' OFFSET FROM THE CENTER OF THE CHANNEL MAINTAINS A CONSISTENT NAVIGATION CHANNEL WIDTH AS COMPARED TO THE OPEN CHANNEL TO THE WEST.

PMA DESCRIPTION

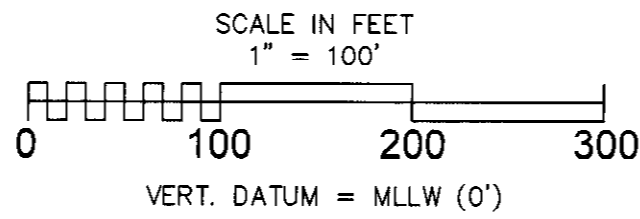
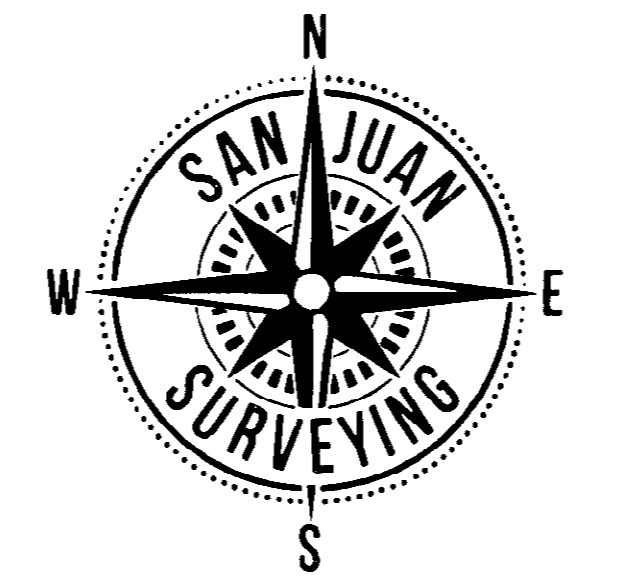
THOSE PORTIONS OF FIRST CLASS TIDELANDS AND BEDLANDS OWNED BY THE STATE OF WASHINGTON IN FRIDAY HARBOR SITUATE IN FRONT OF GOVERNMENT LOT 6, SECTION 13, TOWNSHIP 35 NORTH, RANGE 3 WEST, W.M. DESCRIBED AS FOLLOWS:

COMMENCING AT THE EAST QUARTER CORNER OF SAID SECTION 13, FROM WHICH THE NORTHWEST CORNER OF SAID SECTION 13 BEARS NORTH 61°49'07" WEST; THENCE SOUTH 27°41'52" WEST 1147.67 FEET TO A POINT ON THE GOVERNMENT MEANDER LINE AND THE TRUE POINT OF BEGINNING; THENCE ALONG SAID MEANDER LINE THE FOLLOWING COURSES; SOUTH 73°12'40" WEST 401.00 FEET; THENCE NORTH 58°20'50" WEST 264.35 FEET; THENCE NORTH 25°23'17" WEST 466.34 FEET TO THE INTERSECTION OF SAID MEANDER LINE AND WEST LINE OF SAID GOVERNMENT LOT 6; THENCE LEAVING SAID MEANDER LINE NORTH 33°52'33" EAST 152.11 FEET; THENCE NORTH 4°41'36" EAST 284.03 FEET; THENCE NORTH 8°53'43" EAST 927.48 FEET; THENCE SOUTH 65°01'42" EAST 117.77 FEET; THENCE SOUTH 88°49'15" EAST 291.75 FEET; THENCE SOUTH 5°52'36" EAST 1297.18 FEET; THENCE SOUTH 3°32'02" EAST 424.61 FEET TO THE TRUE POINT OF BEGINNING.

NUM	BEARING	DISTANCE
L1	S 3°32'02"E	193.24'
L2	S 3°32'02"E	231.37'
L3	S 5°52'36"E	1297.18'
L4	S88°49'15"E	291.75'
L5	S65°01'42"E	117.77'
L6	S 8°53'43"W	927.48'
L7	N 4°41'36"E	120.93'
L8	N 4°41'36"E	105.16'
L9	N 4°41'36"E	57.94'
L10	N33°52'33"E	152.11'
L11	N25°23'17"W	466.34'
L12	N58°20'50"W	264.35'
L13	S73°12'40"W	401.00'

NUM	BEARING	DISTANCE
P1	S36°39'02"E	49.79'
P2	S37°47'41"E	34.63'
P3	S59°03'47"E	24.33'
P4	S10°00'19"E	26.51'
P5	S44°10'52"E	20.98'
P6	S12°27'51"E	45.66'
P7	S66°22'07"E	50.70'
P8	N80°01'44"E	24.03'
P9	S55°44'00"E	35.97'
P10	S58°40'34"E	59.30'
P11	S59°38'03"E	62.16'
P12	S38°02'53"E	66.07'
P13	S69°45'41"E	57.71'
P14	S87°05'45"E	37.69'
P15	N82°02'37"E	67.35'
P16	N85°59'19"E	50.85'
P17	S82°29'04"E	39.69'
P18	S89°54'15"E	50.39'
P19	N61°55'44"E	45.21'

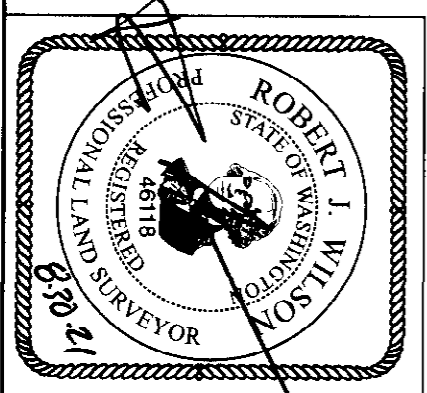
NUM	BEARING	DISTANCE
X1	S58°13'13"E	72.44'
X2	S17°21'50"E	47.25'
X3	S45°45'26"E	77.88'
X4	S66°23'30"E	89.94'
X5	S53°11'59"E	71.64'
X6	S29°33'06"E	62.05'
X7	S30°11'39"E	52.75'
X8	S16°17'01"W	74.52'
X9	S 8°14'02"W	63.51'
X10	S 5°14'06"E	23.79'
X11	S46°00'02"E	83.06'
X12	S83°46'32"E	67.27'
X13	S65°41'07"E	36.91'
X14	N63°14'28"E	45.43'
X15	N73°50'32"E	59.56'
X16	N76°57'00"E	67.63'
X17	N57°23'59"E	44.54'
X18	N52°16'29"E	42.91'
X19	N35°00'55"E	20.06'



BEDLANDS
PORT MANAGEMENT AREA
19.23 ACRES

FIRST CLASS TIDELANDS
PORT MANAGEMENT AREA
3.32 ACRES OPEN TIDELANDS
AND 1.98 ACRES FILL
5.30 ACRES TOTAL
(SEE NOTE 5)

TOTAL
PORT MANAGEMENT AREA
24.53 ACRES

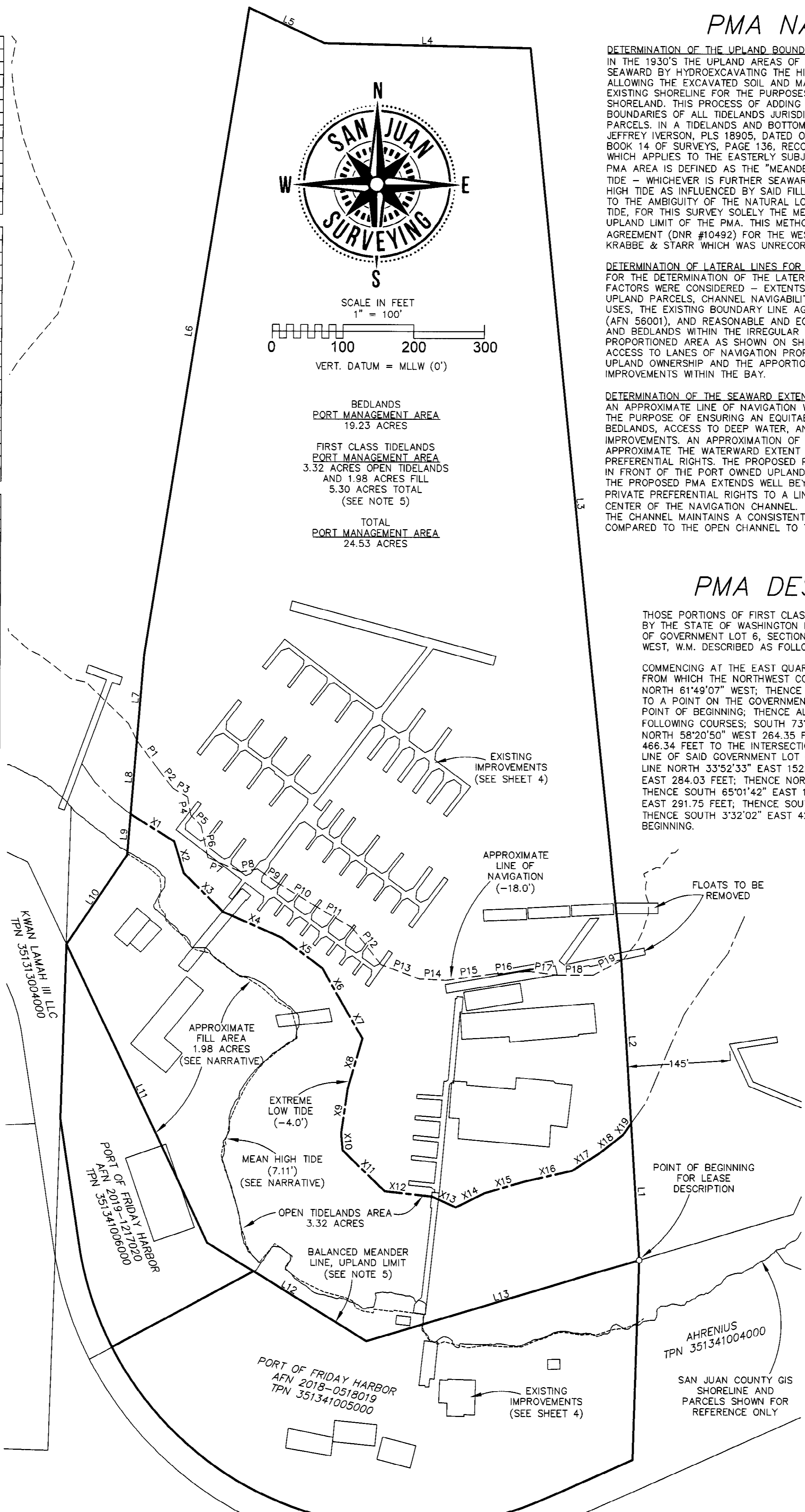


PMA AMENDMENT 20-080023
FOR
PORT OF FRIDAY HARBOR
ON
SAN JUAN ISLAND

DRAWN BY: NSR
CHECKED BY: RJW
DATE: 8/30/21
JOB NO: 18-067
SHEET: 3 OF 5

SAN JUAN SURVEYING
AUDITORS INDEXING DATA
P.O. BOX 611
FRIDAY HARBOR, WA 98250
360.378.2300
WWW.SANJUANSURVEYING.COM

QUARTER / QUARTER: GL-6
SECTION: 13
TOWNSHIP: 35 NORTH
RANGE: 3 WEST

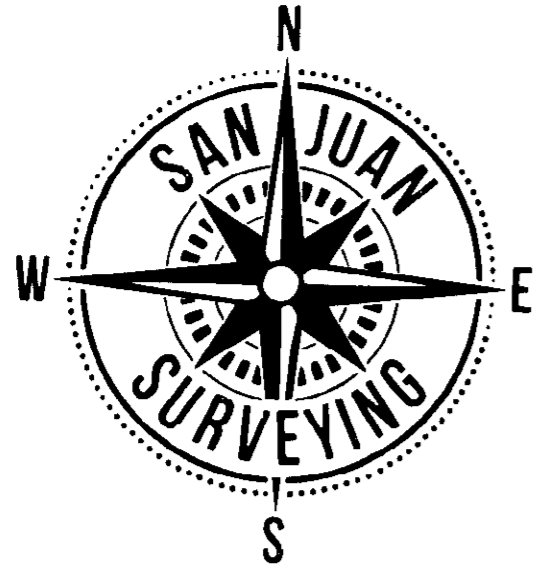


PROPOSED IMPROVEMENTS

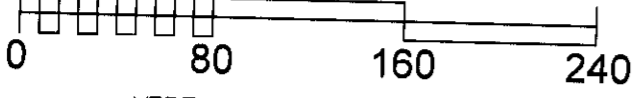
* BASED ON PRELIMINARY DESIGN DRAWINGS PROVIDED BY THE PORT OF FRIDAY HARBOR

AREA OUTSIDE OF PMA TO BE LEASED SEPARATELY OR IMPROVEMENTS TO BE RECONFIGURED TO FIT WITHIN PMA AREA

IMPROVED AND EXPANDED MARINA



SCALE IN FEET
1" = 80'



VERT. DATUM = MLLW (0')

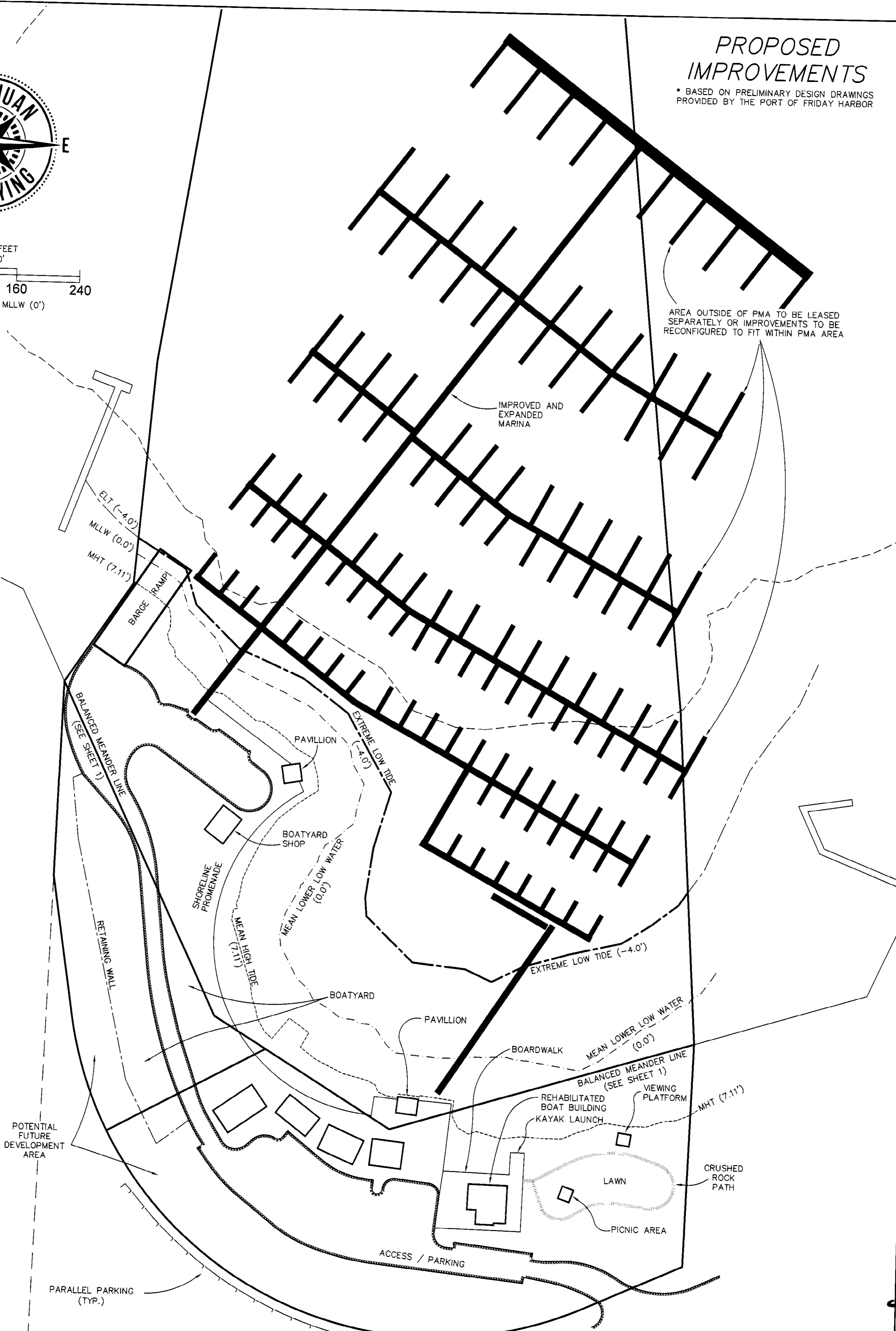


PMA AMENDMENT 20-080023
FOR
PORT OF FRIDAY HARBOR
ON
SAN JUAN ISLAND

DRAWN BY: NSR
CHECKED BY: RJM
DATE: 8/30/21
JOB NO.: 18-067
SHEET: 5 OF 5

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AUDITORS INDEXING DATA
QUARTER / SECTION: GL-6 / 13
TOWNSHIP / RANGE: 35 NORTH / 3 WEST



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