

U.S. Army Corps
Of Engineers
Buffalo District

Public Notice

Applicant:
Town of Evans

Issued: October 15, 2012
Expires: November 13, 2012

Application No: 2007-00940
Section: NY

All written comments should reference the above Application No. and be addressed to:
US Army Corps of Engineers, Buffalo District, 1776 Niagara Street, Buffalo, NY 14207

THE PURPOSE OF THIS PUBLIC NOTICE IS TO SOLICIT COMMENTS FROM THE PUBLIC REGARDING THE WORK DESCRIBED BELOW. NO DECISION HAS BEEN MADE AS TO WHETHER OR NOT A PERMIT WILL BE ISSUED AT THIS TIME.

**Application for Permit under Authority of
Section 10 of the Rivers and Harbors Act of 1899 and
Section 404 of the Clean Water Act (33 U.S.C. 1344).**

APPLICANT: Town of Evans, 8787 Erie Road, Angola, New York 14006.

WATERWAY & LOCATION: Fern Brook (Lake Erie), in the Town of Evans, Erie County, New York

LATITUDE & LONGITUDE: Latitude North: 42.64105
Longitude West: -79.06813

EXISTING CONDITIONS: The work site is located at Evans Beach on Lake Erie, in the Town of Evans, New York. Fern Brook runs through this beach area, and flows directly into Lake Erie. The brook presently does not flow straight, but meanders through the beach area.

PROPOSED WORK: The applicant is proposing to dredge a maximum of about 460 cubic yards per year from the banks of Fern Brook, and to discharge part of this dredged sand material into the brook, in order to maintain this waterway so that it flows smoothly and more directly into Lake Erie. Dredged material not used to maintain and straighten out the section of brook will be placed on the adjacent beach area south of the brook for beach nourishment. The applicant is proposing to do the work on a yearly basis, to prevent flooding upstream of the brook mouth.

PROJECT PURPOSE

Basic: The basic project purpose is to maintain the Fern Brook channel.

Overall: The overall project purpose is to maintain and improve the brook flows into Lake Erie, in order

to prevent flooding of properties upstream of the work site.

Water Dependency Determination (*describe only if project affecting Special Aquatic Site*): Not applicable.

Avoidance and Minimization Information: The applicant is doing the work to maintain and straighten out the section of stream channel of Fern Brook, to prevent upstream flooding of the brook. The applicant will be dredging and filling in the channel with the minimal amount of fill needed maintain the brook. Material not used to fill the channel will be placed on the adjacent beach area for beach nourishment.

Proposed Mitigation: None required.

Location and details of the above described work are shown on the attached maps and drawings.

Comments or questions pertaining to the work described in this notice should reference the Application Number and be directed to the attention of Mel Schroeder, who can be contacted at the above address, by calling (716) 879-4307, or by e-mail at: mel.r.schroeder@usace.army.mil. A lack of response will be interpreted as meaning that there is no objection to the work as proposed.

The applicant has certified that the proposed activity complies with New York's approved Coastal Zone Management Program and will be conducted in a manner consistent with that program. General Concurrence was issued by the New York State Department of State for this work on May 31, 2012 (DOS reference number F-2012-0364). Any comments on the consistency of the proposed activity with New York State's Coastal Zone Management Program should be forwarded to:

New York Department of State
Division of Coastal Resources
Coastal Management Program
One Commerce Plaza
99 Washington Avenue
Albany, NY 12231
Attn: Consistency Review
Telephone (518) 486-3200

The following authorization is required for this project:

Water Quality Certification (or waiver thereof) from the New York State Department of Environmental Conservation.

There are no registered historic properties or properties listed as being eligible for inclusion in the National Register of Historic Places that will be affected by this project.

Available evidence indicates that the proposed work will not affect a species proposed or designated by the U.S. Department of the Interior as threatened or endangered, nor will it affect the critical habitat of any such species. There are no species listed as protected pursuant to the Endangered Species Act located within Erie County, New York, and therefore the Corps is not consulting beyond this Public Notice with the U.S. Fish and Wildlife Service.

This notice is promulgated in accordance with Title 33, Code of Federal Regulations, parts 320-330. Any interested party desiring to comment on the work described herein may do so by submitting their comments, in writing, so that they are received no later than 4:30 pm on the expiration date of this notice.

Comments submitted in response to this notice will be fully considered during the public interest review for this permit application. All written comments will be made a part of the administrative record which is available to the public under the Freedom of Information Act. The Administrative Record, or portions thereof may also be posted on a Corps of Engineers internet web site. Due to resource limitations, this office will normally not acknowledge the receipt of comments or respond to individual letters of comment.

Any individual may request a public hearing by submitting their written request, stating the specific reasons for holding a hearing, in the same manner and time period as other comments.

Public hearings for the purposes of the Corps permit program will be held when the District Commander determines he can obtain additional information, not available in written comments, that will aid him in the decision making process for this application. A Corps hearing is not a source of information for the general public, nor a forum for the resolution of issues or conflicting points of view (witnesses are not sworn and cross examination is prohibited). Hearings will not be held to obtain information on issues unrelated to the work requiring a permit, such as property ownership, neighbor disputes, or the behavior or actions of the public or applicant on upland property not regulated by the Department of the Army. Information obtained from a public hearing is given no greater weight than that obtained from written comments. Therefore, you should not fail to make timely written comments because a hearing might be held.

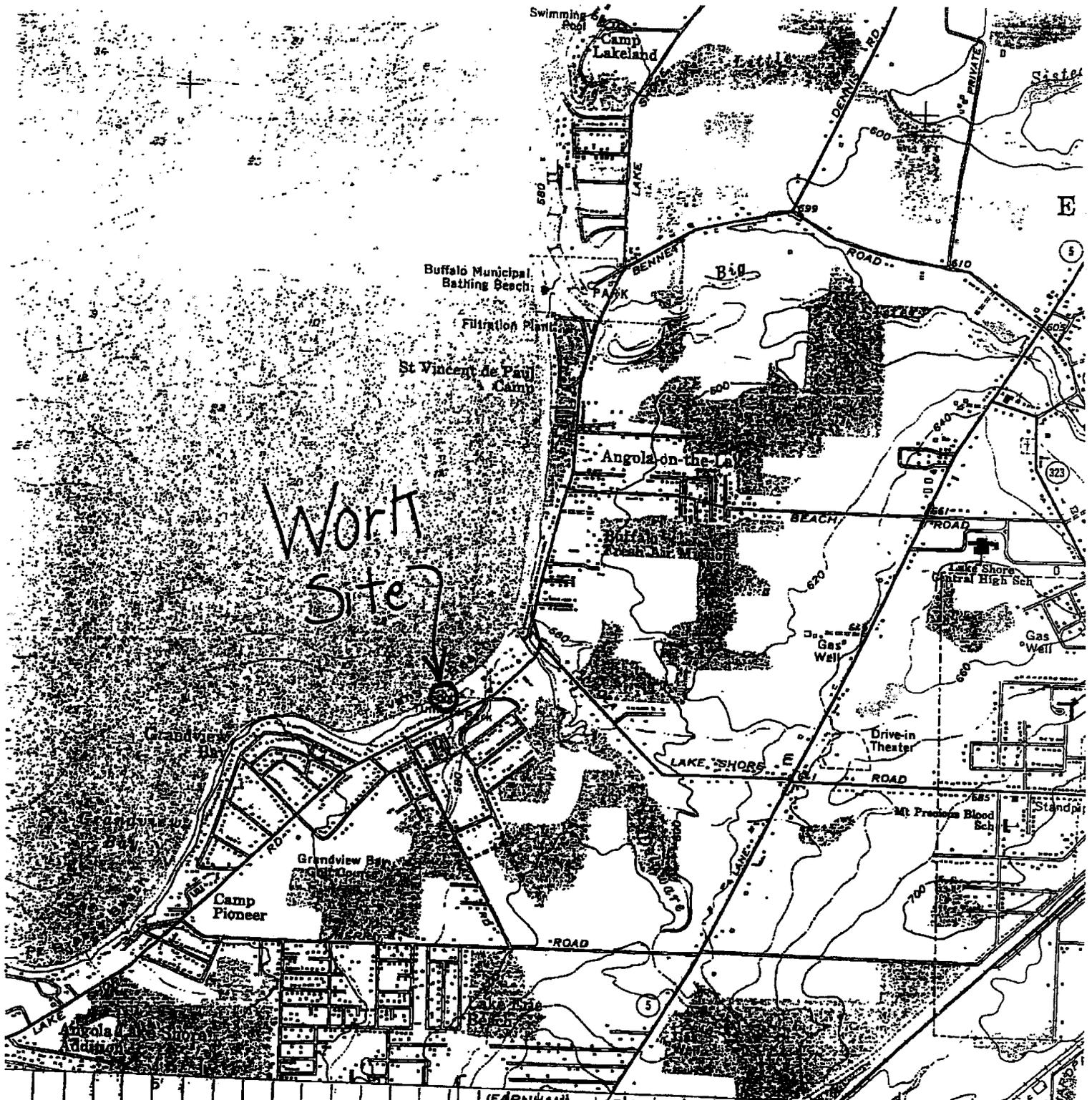
The decision to approve or deny this permit request will be based on an evaluation of the probable impact, including cumulative impacts of the proposed activity on the public interest. That decision will reflect the national concern for both protection and utilization of important resources. The benefits which reasonably may be expected to accrue from the proposal must be balanced against its reasonably foreseeable detriments. All factors which may be relevant to the proposal will be considered including the cumulative effects thereof; among these are conservation, economics, aesthetics, general environmental concerns, wetlands, historic properties, fish and wildlife values, flood hazards, flood plain values, land use, navigation, shoreline erosion and accretion, recreation, water supply and conservation, water quality, energy needs, safety, food and fiber production, mineral needs, considerations of property ownership, and in general, the needs and welfare of the people.

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.

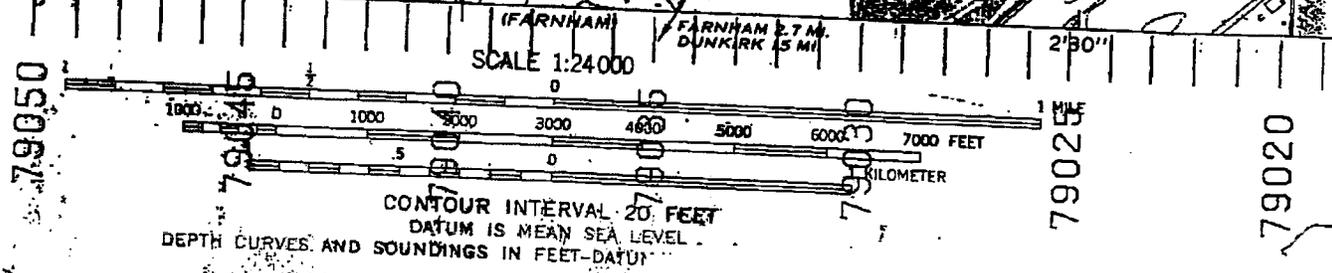
SIGNED

Diane C. Kozlowski
Chief, Regulatory Branch

NOTICE TO POSTMASTER: It is requested that this notice be posted continuously and conspicuously for 30 days from the date of issuance.



Work Site



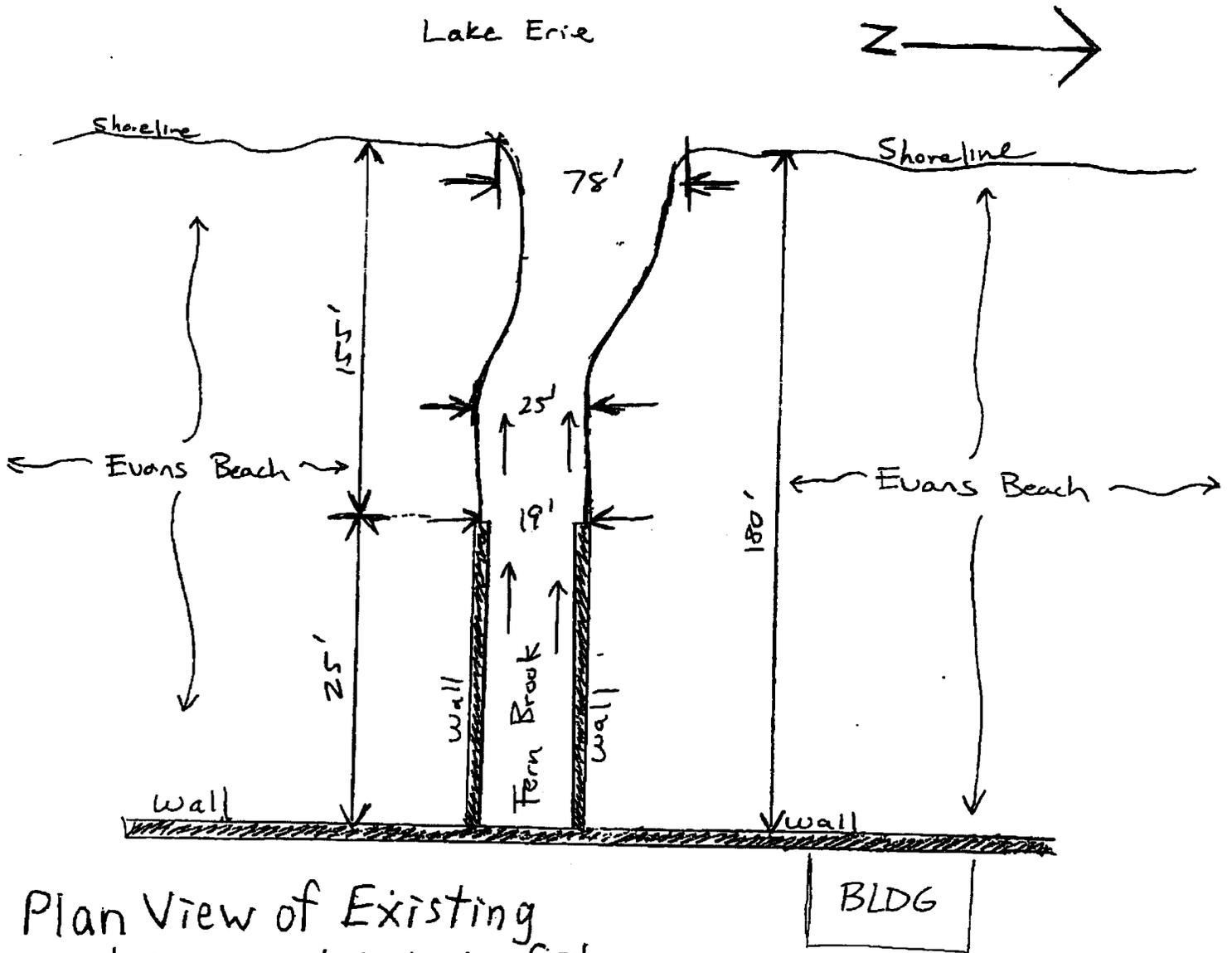
E MEAN
N, 1960

THIS MAP COMPLIES WITH NATIONAL MAP
FOR SALE BY U. S. GEOLOGICAL SURVEY,
A FOLDER DESCRIBING TOPOGRAPHIC MAPS AND SYM

Town of Evans
DA Processing No.: 2007-00940
Erie County, New York
Quad: Angola
Sheet 1 of 4



EXHIBIT 1 - Existing Conditions
 NOT TO SCALE



Plan View of Existing Conditions at Work Site, Showing Existing Creek Channel Location and Configuration (Not to Scale)

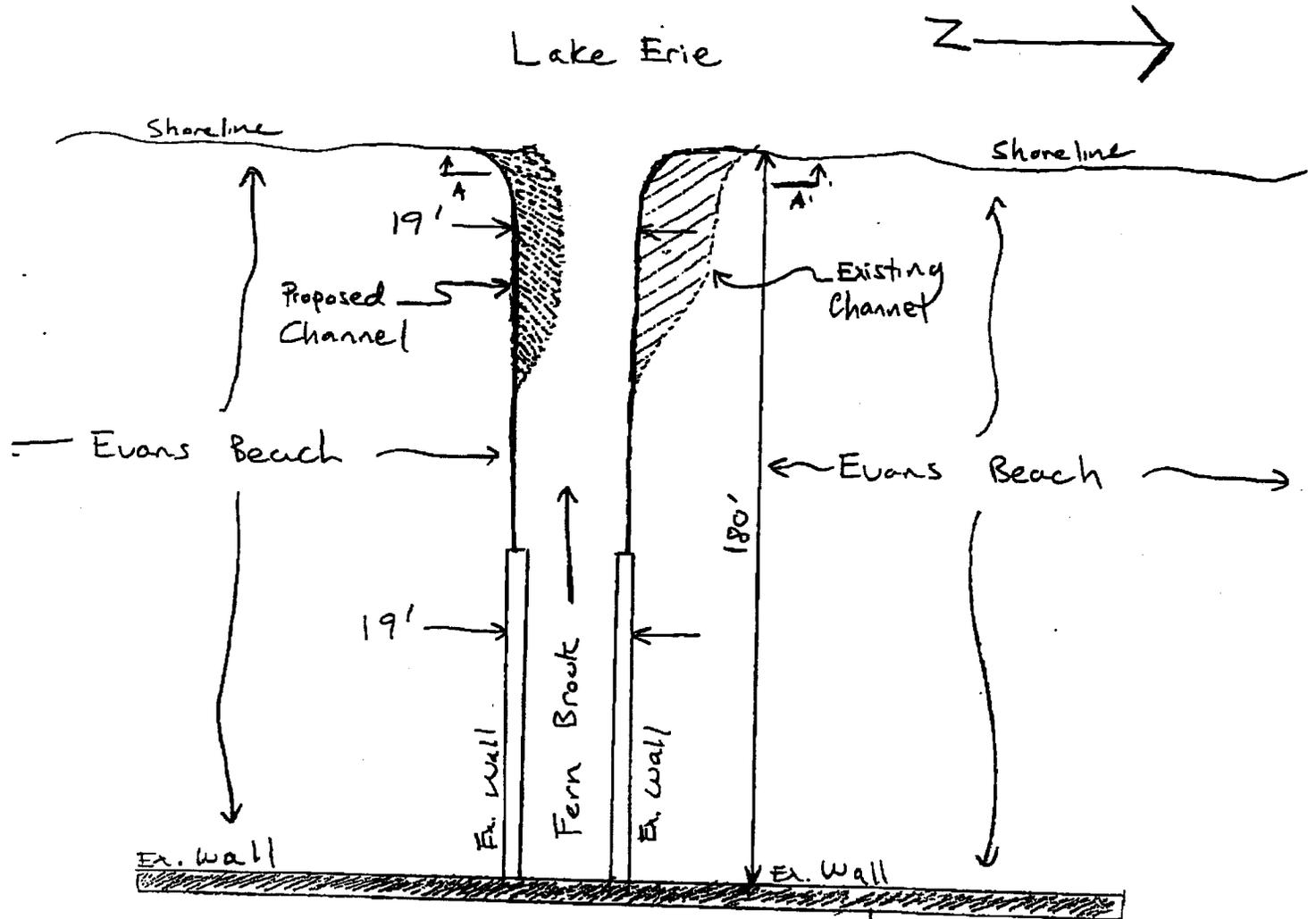


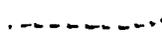
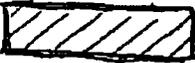
Plan View of Proposed Channel Realignment at Work Site (Not to Scale)

Town of Evans
 DA Processing No.: 2007-00940
 Erie County, New York
 Quad: Angola
 Sheet 3 of 4



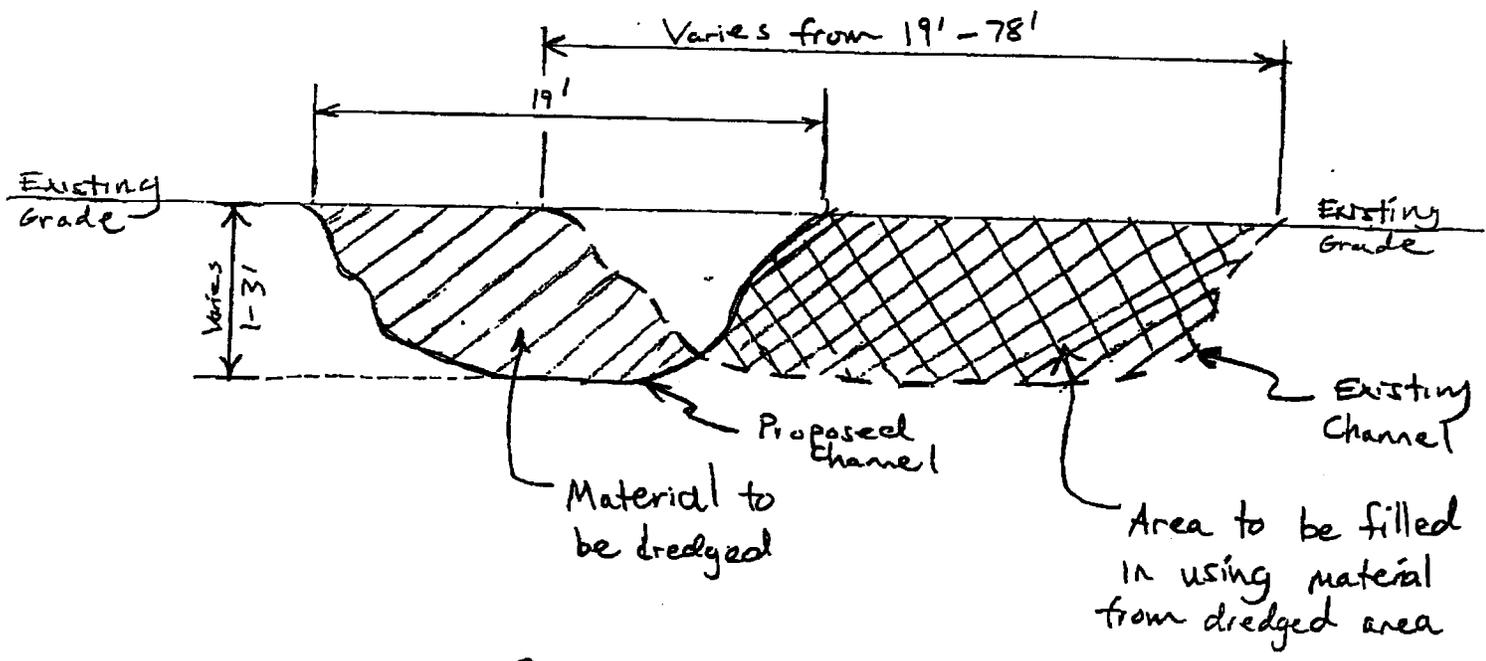
hms



-  Existing Channel
-  Proposed Channel
-  Area to be filled in using material from dredged area
-  Area to be dredged

107
107
67

EXHIBIT 3 - Cross Sections



Section A-A
NOT TO SCALE

Cross-Section View A-A of
Proposed Channel Realignment
at Work Site (Not. to
Scale)

