SECOND AMENDMENT TO PEDESTRIAN PROMENADE EASEMENT AGREEMENT AND GRANT OF EASEMENT RIGHTS

NOV 8 - 2017

THIS SECOND AMENDMENT TO PEDESTRIAN PROMENADE AGREEMENT (this "**Second Amendment** "), is made this _____ day of _____, 2014 (the "**Effective Date**"), by and between **MOORINGS AT CANTON HOMEOWNERS ASSOCIATION, INC.** (the "**HOA**"), a Maryland corporation and **MAYOR AND CITY COUNCIL OF BALTIMORE**, a municipal corporation of the State of Maryland (the "**City**") with approval of the City's Board of Estimates, and **SHIPYARD MARINA, LLC, SHIPYARD MARINA II, LLC AND LIGHTHOUSE POINT REALTY, LLC** (collectively, the "**Submerged Land Owners**") who join for the purposes hereinafter set forth in Section 6.

EXPLANATORY STATEMENT

The parties previously executed a First Amendment to Pedestrian Promenade Agreement dated May 16, 2012 (the "**First Amendment**"), which First Amendment is appended as Exhibit A to this Second Amendment. Subsequent to execution of the First Amendment and approval of the First Amendment by the Board of Estimates of the City of Baltimore, the Pier-Based Promenade (as defined in the First Amendment and in this Second Amendment) was constructed. The parties desire to make certain changes to the First Amendment, which changes are contained in this Second Amendment, in order to (a) remove the "Trapezoidal Fast land" (hereinafter defined) from the Terminated Easement Area (as set forth in Paragraph 4 below), and (b) correct certain references on Schedule B. It is the intention of the parties that this Second Amendment will amend and restate the First Amendment, and that upon recordation of this Second Amendment, the First Amendment will be of no further force and effect.

RECITALS

WHEREAS, EHMC was the Developer of record of a Planned Unit Development known as Lighthouse Point, as amended from time to time, consisting of approximately 11.4 acres, more or less, located at 2600 Boston Street in Baltimore City (the "**PUD**"); and

WHEREAS, EHMC and the City entered into a Pedestrian Promenade Easement Agreement dated October 16, 2002, recorded among the Land Records of Baltimore City (the "**Land Records**"), at Liber F.M.C. No. 8603, Folio 0656, on November 14, 2006 (the "**Original Agreement**") for the purpose of establishing the City's non-exclusive easement rights at the PUD for use in connection with a public pedestrian promenade, as more particularly depicted on Exhibit A of the Original Agreement (the "**Public Promenade**"); and

WHEREAS, MAC, which acquired a portion of the PUD from EHMC, was the developer of a residential townhome project known as the Moorings at Canton, consisting of 67 townhomes situated in an enclosed, waterfront community along the Baltimore Harbor (the "**Moorings Property**"); and

WHEREAS, as part of the Public Promenade, Exhibit A of the Original Agreement references (i) a 20 foot (20') wide non-exclusive easement depicted as a cross-hatched area that

includes, in part, a floating promenade of varying width connected to the western portion of the Moorings Property by way of two ramps (the "**Floating Promenade**"); and (ii) a 20 foot (20') wide non-exclusive easement area located on the fastland between the two ramps to the Floating Promenade, which easement area is depicted in single hatching on said exhibit (herein, the "**Terminated Easement Area**"); and

WHEREAS, the HOA currently holds title to the Terminated Easement Area by virtue of a deed dated September 26, 2006 from MAC that conveyed to the HOA, among other things, Lot 73 as shown on a Plat of Subdivision dated June 9, 2004 recorded among the Land Records on July 20, 2004 in Plat Book F.M.C. 3797 (the "**Plat**"), which deed was recorded among the Land Records at Liber F.M.C. No. 8600, page 154; and

WHEREAS, to resolve a case filed in the Circuit Court for Baltimore City, Case No.: 24-C-10-005641 (the "**Litigation**"); the parties to the Litigation entered into a settlement agreement (the "Settlement"), approved by the Baltimore City Board of Estimates (the "**BOE**") on May 16, 2012, and duly entered in the minutes of the BOE and maintained as part of the BOE's records, that provides, in part, for (a) an enforceable right and obligation for the construction by a certain date of certain improvements (the "**Pier-Based Promenade**") as more particularly described in Schedule A attached hereto and for the maintenance of the "Pier-Based Promenade", extending seaward of and adjacent to the bulkhead over an area of the Patapsco River (the "**Pier Promenade Area**"), which Pier Promenade Area is shown on Schedule B to this Second Amendment, and (b) for an easement for public pedestrian use of this public pedestrian walkway for the benefit of the City as a permanent part of the City's public promenade system; and

WHEREAS, the Settlement also provides for the removal and elimination of the Floating Promenade in connection with the construction of the Pier-Based Promenade and that the Pier-Based Promenade shall replace the Floating Promenade and the Terminated Easement Area and shall become part of the Easement Area and the Easement Improvements as these two terms are defined in the Original Agreement and shall be the City's sole and exclusive right to a Public Promenade in that area; and

WHEREAS, the HOA has accepted the Pier-Based Promenade as being fully constructed as required by the terms of the Settlement and has advised the City of its acceptance and represents that it is fully authorized to enter into the terms and conditions of and execute this Second Amendment.

WHEREAS, the parties desire to amend and restate the First Amendment in accordance with the terms of this Second Amendment, and this Second Amendment has been approved by the BOE on the date set forth below its name on page 7 below, and duly entered in the minutes of the BOE and maintained as part of the BOE's records,.

NOW THEREFORE, in consideration of the mutual obligations of the parties hereto, and other good and valuable consideration, the receipt and adequacy of which are hereby acknowledged, the parties hereto for themselves, their successors and assigns, hereby agree as follows:

1. Recitals. The Explanatory Statement and the Recitals above form part of this Second Amendment and are hereby incorporated herein.

2. Restated Terms of the Original Agreement and the First Amendment. The First Amendment is hereby amended and restated in its entirety in this Second Amendment and is hereby declared to be null and void. Except as expressly set forth in this Second Amendment, all other terms of the Original Agreement are acknowledged and restated by the parties hereto as if fully set forth herein and remain in full force and effect as amended hereby.

3. Grant of Easement. HOA hereby grants to the City a non-exclusive permanent easement for pedestrian ingress and egress on and over the Pier-Based Promenade as located in the Pier-Promenade Area for the benefit of the City, subject to and in accordance with the provisions of Section 3 of the Original Agreement and agrees to be bound by and to personally assume all of the obligations of the Grantor as set forth in the Original Agreement as these relate to the Pier-Based Promenade and the Pier Promenade Area and the balance of the Easement Area that is contained within Lot 73. The City may exercise the easement provided herein only upon the terms and subject to the conditions that are set forth in the provisions of the Original Agreement, including the provisions of Section 2 of the Original Agreement. All references to the "Easement Area" and to the "Easement Improvements" in the Original Agreement shall be deemed to include the Pier-Based Promenade and the Pier Promenade Area. Notwithstanding anything in the Original Agreement to the contrary, the City's non-exclusive easement for pedestrian ingress and egress to the Pier-Based Promenade shall be twenty-four hours a day, seven days a week. The HOA shall be responsible to the City for the maintenance, repair, and/or replacement of the Pier-Based Promenade and in no event shall such maintenance, repair, and/or replacement be inferior to what is described in the Pier-Based Promenade Plans attached as Schedule A hereto. The easement and rights conveyed herein shall run with and shall be binding upon Lot 73 of the Plat and shall inure to the benefit of the City and its successors and assigns.

4. Termination of the City's Rights to the Terminated Easement Area. In accordance with the terms of the Settlement Agreement, the City hereby terminates, releases, waives and surrenders any and all claims, demands, right, title and interest concerning, in, over or to the Terminated Easement Area (aside from any utility easement that the City may separately be a party to) including: (a) all rights and claims that the Terminated Easement Area be used as a public pedestrian promenade, and (b) any claim of trespass and/or encroachment or other interference in, over or to the Terminated Easement Area, in each case as if the single hatch area shown on Exhibit A to the Original Agreement and all references to such single hatch area in the Original Agreement were removed entirely; provided, however, that the Terminated Easement shall not include the area designated as the "Trapezoidal Fast land" on Schedule B attached hereto, which Trapezoidal Fast land shall continue to be part of the "Easement Area" as defined in paragraph 1 of the Original Agreement.

5. Modification of Other City Plans, Plats and Agreements. Upon request of the HOA, the City agrees to cooperate to modify (the HOA to pay all costs and expenses that any other applicant asking for such a modification would pay) the Plat in order to eliminate any reference to the Interim Pedestrian Promenade Easement Agreement dated May 5, 1997 and

recorded among the Land Records at Liber F.M.C. No. 8147, page 244 and replace it with a reference to this Second Amendment.

6. Joinder by Submerged Land Owners. Shipyard Marina, LLC and Shipyard Marina II, LLC are the owners of certain submerged land located seaward of mean high tide being a portion of Lot 75 as shown on the Plat, and Lighthouse Point Realty, LLC is the owner of certain submerged land located seaward of mean high tide being a portion of Lot 76 as shown on the Plat (collectively, such portions of Lot 75 and Lot 76 are referred to herein as the "**Submerged Lots.**") The Submerged Land Owners hereby each grant the following rights and easements to the HOA, its successors and assigns, for the benefit of the HOA, its successors, assigns and agents, employees, contractors, invitees, guests, tenants, subtenants, licensees, officers, directors, partners, managers, members, and visitors of the HOA and for the benefit of the City (for the exercise of all rights that the City has pursuant to the Original Agreement as modified by this Second Amendment): i) all of the right, title, and interest, if any, of the Submerged Land Owners in and to the Pier-Based Promenade, and ii) the right to use in perpetuity the portion of the Submerged Lots necessary to support the Pier-Based Promenade as depicted on Schedule A, and to maintain, repair, use and enjoy the same. The easements and rights conveyed herein shall run with and shall be binding upon the Submerged Lots and shall inure to the benefit of the HOA and its successors and assigns and any other person or entity having or acquiring any right, title or interest in all or any portion of Lot 73. The Submerged Land Owners hereby acknowledge and agree that they have no right, title and/or interest in and to any portion of the Pier-Based Promenade.

7. Insurance and Indemnification for Pier-Based Promenade and Pier-Promenade Area. As to the Pier-Based Promenade and the Pier-Based Promenade Area only, paragraph 6 of the Original Agreement is replaced by the following:

"With respect to any liability or claim of liability that arises from the HOA's failure to maintain or repair the Pier-Based Promenade and Pier-Promenade Area in accordance with this Second Amendment, the HOA shall defend, indemnify, and hold harmless the Submerged Land Owners, and their respective members, officers, directors, employees and agents, including Dr. Selvin Passen, against and from any such liability or claim for bodily injury, death or property damage arising out of or related to use of the Pier-Based Promenade and Pier-Promenade Area as set forth in this Second Amendment, including reasonable attorney's fees incurred by the Submerged Land Owners defending against such claims or liability, notwithstanding any policy or policies of insurance, except for liabilities and claims that result in whole or in part from any negligent, grossly negligent or intentional act of the Submerged Land Owners, or either of them, or any of their officers, employees, contractors or representatives. During the term of this Agreement, the HOA shall maintain insurance with limits not less than $1,000,000 per occurrence to insure against all such claims or liability arising out of or related to use of the Pier-Based Promenade and Pier-Promenade Area.

The HOA shall defend, indemnify, and hold harmless the City against and from any liability or claim or liability for bodily injury, death or property damage arising out of the failure of the HOA to maintain or repair the Pier-Based Promenade and Pier-Promenade Area as set forth in this Second Amendment, notwithstanding any policy or policies of insurance.

The City shall maintain under its self-insurance program liability insurance against claims for bodily injury and death and property damage in the Pier-Promenade Area occasioned by accident or other occurrences.

Except for any liability or claim of liability against which the City is indemnified by the HOA, the City shall defend, indemnify, and hold harmless the HOA against and from any liability or claim of liability to third parties for bodily injury, death, or property damage arising out of the lawful and unlawful use of the Pier-Based Promenade and Pier-Promenade Area.

Except for any liability or claim of liability arising from the HOA's failure to maintain or repair the Pier-Based Promenade and Pier-Promenade Area, the City shall defend, indemnify, and hold harmless the Submerged Land Owners, and their respective members, officers, directors, employees and agents, including Dr. Selvin Passen, against and from any liability or claim of liability for bodily injury, death, or property damage arising out of or related to the lawful or unlawful use of the Pier-Based Promenade and Pier-Promenade Area, except for liabilities and claims that result in whole or in part from any negligent, grossly negligent or intentional act of the Submerged Land Owners, or either of them, or any of their officers, employees, contractors or representatives. If the City Law Department is unable to provide a defense to the Submerged Land Owners because of a conflict, the City will retain private counsel subject to the approval of the Submerged Land Owners not to be unreasonably withheld."

Paragraph 6 of the Original Agreement shall remain in effect for all other portions of the Public Promenade.

8. Notices. Any notice, demand, consent, approval, request or communication to be provided hereunder to a party shall be in writing and deemed to have been provided three (3) business days after being sent certified mail, postage prepaid, return receipt requested, to the addresses of such parties as are set forth in Schedule C to this Second Amendment.

9. Amendment. Any amendment of this Second Amendment must be executed in writing and with the same formality as this Agreement and recorded among the Land Records of Baltimore City.

10. Schedules. Each writing, schedule or exhibit referred to herein as being attached hereto is hereby made a part of this Second Amendment.

SCHEDULE A: Pier-Based Promenade Plans

SCHEDULE B: Drawing of Pier-Based Promenade Area

SCHEDULE C: Addresses to Whom All Notices Concerning This Agreement Shall Be Sent.

SIGNATURES CONTINUED ON NEXT PAGES

WITNESS:

MOORINGS AT CANTON HOMEOWNERS ASSOCIATION, INC.

By: _____(SEAL)
Nicholas Christopholous
President

STATE OF MARYLAND)
) SS:
CITY OF BALTIMORE)

I HEREBY CERTIFY that on this 13th day of May, 2016, before me, a Notary Public of the State of Maryland, personally appeared Nicholas Christopholous, who acknowledged himself to be the President of Moorings at Canton Homeowners Association, Inc., and that he as such being authorized to do so, executed the foregoing Agreement for the purposes contained on behalf of the Corporation.

IN WITNESS WHEREOF, I have hereunto affixed by hand and official seal the day and year first above written.

_____
Notary Public
My Commission Expires: September 20, 2016

DESIREE CLARY
Notary Public-Maryland
Baltimore City
My Commission Expires
September 20, 2016

ATTEST:

MAYOR AND CITY COUNCIL OF BALTIMORE

Alternate

Custodian of the City Seal

By: _____

Title: Mayor, City of Baltimore

Approved by the Board of Estimates:

NOV 8 - 2017

Clerk

Date

Approved for form and legal sufficiency:

12-4-17

Chief Solicitor

Date

By: _____

Commissioner, Baltimore City Dept. of Housing and Community Development

STATE OF MARYLAND)
) SS:
CITY OF BALTIMORE)

I HEREBY CERTIFY that on this 8 day of November, 2014, before me, a Notary Public of the State of Maryland, personally appeared Michael Braverman, of the Baltimore City Department of Housing and Community Development, who signed the foregoing Agreement in my presence and acknowledged it to be the act of the Mayor and City Council of Baltimore.

IN WITNESS WHEREOF, I have hereunto affixed by hand and official seal the day and year first above written.

Notary Public

My Commission Expires: Nov. 3, 2018

WITNESS: **SHIPYARD MARINA, LLC,**

By: _____ (SEAL)
Selvin Passen, M.D.
Managing Member

STATE OF MARYLAND)
) SS:
CITY OF BALTIMORE)

I HEREBY CERTIFY that on this 12th day of February, 2015, before me, a Notary Public of the State of Maryland, personally appeared Selvin Passen, M.D. who acknowledged himself to be the Managing Member of SHIPYARD MARINA, LLC, and that he as such being authorized to do so, executed the foregoing Agreement for the purposes contained on behalf of the limited liability company.

IN WITNESS WHEREOF, I have hereunto affixed by hand and official seal the day and year first above written.

_____
Notary Public
My Commission Expires: 9-15-17

REBECCA L. DUVALL
NOTARY PUBLIC
BALTIMORE COUNTY
MARYLAND
MY COMMISSION EXPIRES SEPT. 15, 2017

WITNESS: **SHIPYARD MARINA II, LLC**

By: _____ (SEAL)
Selvin Passen, M.D.
Managing Member

STATE OF MARYLAND)
) SS:
CITY OF BALTIMORE)

I HEREBY CERTIFY that on this 12th day of February, 2015, before me, a Notary Public of the State of Maryland, personally appeared Selvin Passen, M.D. who acknowledged himself to be the Managing Member of SHIPYARD MARINA II, LLC, and that he as such being authorized to do so, executed the foregoing Agreement for the purposes contained on behalf of the limited liability company.

IN WITNESS WHEREOF, I have hereunto affixed by hand and official seal the day and year first above written.

Rebecca L. Duvall
Notary Public
My Commission Expires: 9-15-17

REBECCA L. DUVALL
NOTARY PUBLIC
BALTIMORE COUNTY
MARYLAND
MY COMMISSION EXPIRES SEPT. 15, 2017

WITNESS: **LIGHTHOUSE POINT REALTY, LLC**

_____ By: _____ (SEAL)
Selvin Passen, M.D.
Managing Member

STATE OF MARYLAND)
) SS:
CITY OF BALTIMORE)

I HEREBY CERTIFY that on this 12th day of February, 2015, before me, a Notary Public of the State of Maryland, personally appeared Selvin Passen, M.D. who acknowledged himself to be the Managing Member of LIGHTHOUSE POINT REALTY, LLC, and that he as such being authorized to do so, executed the foregoing Agreement for the purposes contained on behalf of the limited liability company.

IN WITNESS WHEREOF, I have hereunto affixed by hand and official seal the day and year first above written.

_____
Notary Public
My Commission Expires: 9-15-17

REBECCA L. DUVALL
NOTARY PUBLIC
BALTIMORE COUNTY
MARYLAND
MY COMMISSION EXPIRES SEPT. 15, 2017

EXHIBIT A

First Amendment to Pedestrian Promenade Easement Agreement

FIRST AMENDMENT TO PEDESTRIAN PROMENADE EASEMENT AGREEMENT AND GRANT OF EASEMENT RIGHTS

THIS FIRST AMENDMENT TO PEDESTRIAN PROMENADE AGREEMENT (this "**First Amendment** "), is made this _____ day of MAY 16 2012, 2012 (the "**Effective Date**"), by and between MOORINGS AT CANTON HOMEOWNERS ASSOCIATION, INC. (the "**HOA**"), a Maryland corporation and MAYOR AND CITY COUNCIL OF BALTIMORE, a municipal corporation of the State of Maryland (the "**City**") with approval of the City's Board of Estimates, and SHIPYARD MARINA, LLC, SHIPYARD MARINA II, LLC AND LIGHTHOUSE POINT REALTY, LLC (collectively, the "**Submerged Land Owners**") who join for the purposes hereinafter set forth in Section 6.

WHEREAS, EHMC was the Developer of record of a Planned Unit Development known as Lighthouse Point, as amended from time to time, consisting of approximately 11.4 acres, more or less, located at 2600 Boston Street in Baltimore City (the "**PUD**"); and

WHEREAS, EHMC and the City entered into a Pedestrian Promenade Easement Agreement dated October 16, 2002, recorded among the Land Records of Baltimore City (the "**Land Records**"), at Liber F.M.C. No. 8603, Folio 0656, on November 14, 2006 (the "**Original Agreement**") for the purpose of establishing the City's non-exclusive easement rights at the PUD for use in connection with a public pedestrian promenade, as more particularly depicted on Exhibit A of the Original Agreement (the "**Public Promenade**"); and

WHEREAS, MAC, which acquired a portion of the PUD from EHMC, was the developer of a residential townhome project known as the Moorings at Canton, consisting of 67 townhomes situated in an enclosed, waterfront community along the Baltimore Harbor (the "**Moorings Property**"); and

WHEREAS, as part of the Public Promenade, Exhibit A of the Original Agreement references (i) a 20 foot (20') wide non-exclusive easement depicted as a cross-hatched area that includes, in part, a floating promenade of varying width connected to the western portion of the Moorings Property by way of two ramps (the "**Floating Promenade**"); and (ii) a 20 foot (20') wide non-exclusive easement area located on the fastland between the two ramps to the Floating Promenade, which easement area is depicted in single hatching on said exhibit (herein, the "**Terminated Easement Area**"); and

WHEREAS, the HOA currently holds title to the Terminated Easement Area by virtue of a deed dated September 26, 2006 from MAC that conveyed to the HOA, among other things, Lot 73 as shown on a Plat of Subdivision dated June 9, 2004 recorded among the Land Records on July 20, 2004 in Plat Book F.M.C. 3797 (the "**Plat**"), which deed was recorded among the Land Records at Liber F.M.C. No. 8600, page 154; and

WHEREAS, to resolve a case filed in the Circuit Court for Baltimore City, Case No.: 24-C-10-005641 (the "**Litigation**"); the parties to the Litigation entered into a settlement agreement (the "Settlement"), approved by the Baltimore City Board of Estimates (the "**BOE**") on _____ and duly entered in the minutes of the BOE and maintained as part of the

BOE's records, that provides, in part, for (a) an enforceable right and obligation for the construction by a certain date of certain improvements (the "**Pier-Based Promenade**") as more particularly described in Schedule A attached hereto and for the maintenance of the "Pier-Based Promenade", extending seaward of and adjacent to the bulkhead over an area of the Patapsco River (the "**Pier Promenade Area**"), which Pier Promenade Area is shown on Schedule B to this First Amendment, and (b) for an easement for public pedestrian use of this public pedestrian walkway for the benefit of the City as a permanent part of the City's public promenade system; and

WHEREAS, the Settlement also provides for the removal and elimination of the Floating Promenade in connection with the construction of the Pier-Based Promenade and that the Pier-Based Promenade shall replace the Floating Promenade and the Terminated Easement Area and shall become part of the Easement Area and the Easement Improvements as these two terms are defined the Original Agreement and shall be the City's sole and exclusive right to a Public Promenade in that area; and

WHEREAS, the HOA has accepted the Pier-Based Promenade as being fully constructed as required by the terms of the Settlement and has advised the City of its acceptance and represents that it is fully authorized to enter into the terms and conditions of and execute this First Amendment.

NOW THEREFORE, in consideration of the mutual obligations of the parties hereto, and other good and valuable consideration, the receipt and adequacy of which are hereby acknowledged, the parties hereto for themselves, their successors and assigns, hereby agree as follows:

1. Recitals. The Recitals above form part of this First Amendment and are hereby incorporated herein.

2. Restated Terms of the Original Agreement. Except as expressly set forth herein, all other terms of the Original Agreement are acknowledged and restated by the parties hereto as if fully set forth herein and remain in full force and effect as amended hereby.

3. Grant of Easement. HOA hereby grants to the City a non-exclusive permanent easement for pedestrian ingress and egress on and over the Pier-Based Promenade as located in the Pier-Promenade Area for the benefit of the City, subject to and in accordance with the provisions of Section 3 of the Original Agreement and agrees to be bound by and to personally assume all of the obligations of the Grantor as set forth in the Original Agreement as these relate to the Pier-Based Promenade and the Pier Promenade Area and the balance of the Easement Area that is contained within Lot 73. The City may exercise the easement provided herein only upon the terms and subject to the conditions that are set forth in the provisions of the Original Agreement, including the provisions of Section 2 of the Original Agreement. All references to the "Easement Area" and to the "Easement Improvements" in the Original Agreement shall be deemed to include the Pier-Based Promenade and the Pier Promenade Area. Notwithstanding anything in the Original Agreement to the contrary, the City's non-exclusive easement for pedestrian ingress and egress to the Pier-Based Promenade shall be twenty-four

hours a day, seven days a week. The HOA shall be responsible to the City for the maintenance, repair, and/or replacement of the Pier-Based Promenade and in no event shall such maintenance, repair, and/or replacement be inferior to what is described in the Pier-Based Promenade Plans attached as Schedule A hereto. The easement and rights conveyed herein shall run with and shall be binding upon Lot 73 of the Plat and shall inure to the benefit of the City and its successors and assigns.

4. Termination of the City's Rights to the Terminated Easement Area. In accordance with the terms of the Settlement Agreement, the City hereby terminates, releases, waives and surrenders any and all claims, demands, right, title and interest concerning, in, over or to the Terminated Easement Area (aside from any utility easement that the City may separately be a party to) including: (a) all rights and claims that the Terminated Easement Area be used as a public pedestrian promenade, and (b) any claim of trespass and/or encroachment or other interference in, over or to the Terminated Easement Area, in each case as if the single hatch area shown on Exhibit A to the Original Agreement and all references to such single hatch area in the Original Agreement were removed entirely.

5. Modification of Other City Plans, Plats and Agreements. Upon request of the HOA, the City agrees to cooperate to modify (the HOA to pay all costs and expenses that any other applicant asking for such a modification would pay) the Plat in order to eliminate any reference to the Interim Pedestrian Promenade Easement Agreement dated May 5, 1997 and recorded among the Land Records at Liber F.M.C. No. 8147, page 244 and replace it with a reference to this First Amendment.

6. Joinder by Submerged Land Owners. _ Shipyard Marina, LLC and Shipyard Marina II, LLC are the owners of certain submerged land located seaward of mean high tide being a portion of Lot 75 as shown on the Plat, and Lighthouse Point Realty, LLC is the owner of certain submerged land located seaward of mean high tide being a portion of Lot 76 as shown on the Plat (collectively, such portions of Lot 75 and Lot 76 are referred to herein as the "**Submerged Lots**.") The Submerged Land Owners hereby each grant the following rights and easements to the HOA, its successors and assigns, for the benefit of the HOA, its successors, assigns and agents, employees, contractors, invitees, guests, tenants, subtenants, licensees, officers, directors, partners, managers, members, and visitors of the HOA and for the benefit of the City (for the exercise of all rights that the City has pursuant to the Original Agreement as modified by this First Amendment): i) all of the right, title, and interest, if any, of the Submerged Land Owners in and to the Pier-Based Promenade, and ii) the right to use in perpetuity the portion of the Submerged Lots necessary to support the Pier-Based Promenade as depicted on Schedule A, and to maintain, repair, use and enjoy the same. The easements and rights conveyed herein shall run with and shall be binding upon the Submerged Lots and shall inure to the benefit of the HOA and its successors and assigns and any other person or entity having or acquiring any right, title or interest in all or any portion of Lot 73. The Submerged Land Owners hereby acknowledge and agree that they have no right, title and/or interest in and to any portion of the Pier-Based Promenade.

7. Insurance and Indemnification for Pier-Based Promenade and Pier-Promenade Area. As to the Pier-Based Promenade and the Pier-Based Promenade Area only, paragraph 6 of the Original Agreement is replaced by the following:

"With respect to any liability or claim of liability that arises from the HOA's failure to maintain or repair the Pier-Based Promenade and Pier-Promenade Area in accordance with this First Amendment, the HOA shall defend, indemnify, and hold harmless the Submerged Land Owners, and their respective members, officers, directors, employees and agents, including Dr. Selvin Passen, against and from any such liability or claim for bodily injury, death or property damage arising out of or related to use of the Pier-Based Promenade and Pier-Promenade Area as set forth in this First Amendment, including reasonable attorney's fees incurred by the Submerged Land Owners defending against such claims or liability, notwithstanding any policy or policies of insurance, except for liabilities and claims that result in whole or in part from any negligent, grossly negligent or intentional act of the Submerged Land Owners, or either of them, or any of their officers, employees, contractors or representatives. During the term of this Agreement, the HOA shall maintain insurance with limits not less than $1,000,000 per occurrence to insure against all such claims or liability arising out of or related to use of the Pier-Based Promenade and Pier-Promenade Area.

The HOA shall defend, indemnify, and hold harmless the City against and from any liability or claim or liability for bodily injury, death or property damage arising out of the failure of the HOA to maintain or repair the Pier-Based Promenade and Pier-Promenade Area as set forth in this First Amendment, notwithstanding any policy or policies of insurance.

The City shall maintain under its self-insurance program liability insurance against claims for bodily injury and death and property damage in the Pier-Promenade Area occasioned by accident or other occurrences.

Except for any liability or claim of liability against which the City is indemnified by the HOA, the City shall defend, indemnify, and hold harmless the HOA against and from any liability or claim of liability to third parties for bodily injury, death, or property damage arising out of the lawful and unlawful use of the Pier-Based Promenade and Pier-Promenade Area.

Except for any liability or claim of liability arising from the HOA's failure to maintain or repair the Pier-Based Promenade and Pier-Promenade Area, the City shall defend, indemnify, and hold harmless the Submerged Land Owners, and their respective members, officers, directors, employees and agents, including Dr. Selvin Passen, against and from any liability or claim of liability for bodily injury, death, or property damage arising out of or related to the lawful or unlawful use of the Pier-Based Promenade and Pier-Promenade Area, except for liabilities and claims that result in whole or in part from any negligent, grossly negligent or intentional act of the Submerged Land Owners, or either of them, or any of their officers, employees, contractors or representatives. If the City Law Department is unable to provide a defense to the Submerged Land Owners because of a conflict, the City will retain private counsel subject to the approval of the Submerged Land Owners not to be unreasonably withheld."

Paragraph 6 of the Original Agreement shall remain in effect for all other portions of the Public Promenade.

8. Notices. Any notice, demand, consent, approval, request or communication to be provided hereunder to a party shall be in writing and deemed to have been provided three (3) business days after being sent certified mail, postage prepaid, return receipt requested, to the addresses of such parties as are set forth in Schedule C to this First Amendment.

9. Amendment. Any amendment of this First Amendment must be executed in writing and with the same formality as this Agreement and recorded among the Land Records of Baltimore City.

10. Schedules. Each writing, schedule or exhibit referred to herein as being attached hereto is hereby made a part of this First Amendment.

SCHEDULE A: Pier-Based Promenade Plans

SCHEDULE B: Drawing of Pier-Based Promenade Area

SCHEDULE C: Addresses to Whom All Notices Concerning This Agreement Shall Be Sent.

SIGNATURES CONTINUED ON NEXT PAGES

WITNESS:

MOORINGS AT CANTON HOMEOWNERS ASSOCIATION, INC.

By: _____(SEAL)
Nicholas Christopholous
President

STATE OF MARYLAND)
) SS:
CITY OF BALTIMORE)

I HEREBY CERTIFY that on this 4th day of May, 2012, before me, a Notary Public of the State of Maryland, personally appeared Nicholas Christopholous, who acknowledged himself to be the President of Moorings at Canton Homeowners Association, Inc., and that he as such being authorized to do so, executed the foregoing Agreement for the purposes contained on behalf of the Corporation.

IN WITNESS WHEREOF, I have hereunto affixed by hand and official seal the day and year first above written.

_____
Notary Public
My Commission Expires: 2/1/13

LORRAINE HATHAWAY
NOTARY
PUBLIC
BALTIMORE COUNTY, MD.

316786.9
4/6/12
495B-1

ATTEST:

Custodian of the City Seal
Alternate

MAYOR AND CITY COUNCIL OF BALTIMORE

By: _____

Title: Commissioner, Department of Housing & Community Development

Approved by the Board of Estimates:

Clerk

MAY 16 2012
Date

Approved for form and legal sufficiency:

Principal Counsel

Date

STATE OF MARYLAND)
) SS:
CITY OF BALTIMORE)

I HEREBY CERTIFY that on this 11th day of MAY, 2012, before me, a Notary Public of the State of Maryland, personally appeared PAUL GRAZIANO, of the BALTIMORE HOUSING, who signed the foregoing Agreement in my presence and acknowledged it to be the act of the Mayor and City Council of Baltimore.

IN WITNESS WHEREOF, I have hereunto affixed by hand and official seal the day and year first above written.

ANGELA S. EPPS
Notary Public - Maryland
City of Baltimore
My Commission Expires on
February 20, 2016

Notary Public
My Commission Expires: 2/20/2016

316786.9
4/5/12
4958-1

WITNESS:

SHIPYARD MARINA, LLC,

By: _____ (SEAL)
Selvin Passen, M.D.
Managing Member

STATE OF MARYLAND)
) SS:
CITY OF BALTIMORE)

I HEREBY CERTIFY that on this 9th day of April, 2012, before me, a Notary Public of the State of Maryland, personally appeared Selvin Passen, M.D. who acknowledged himself to be the Managing Member of SHIPYARD MARINA, LLC, and that he as such being authorized to do so, executed the foregoing Agreement for the purposes contained on behalf of the limited liability company.

IN WITNESS WHEREOF, I have hereunto affixed by hand and official seal the day and year first above written.

REBECCA L. DUVALL
NOTARY PUBLIC
BALTIMORE COUNTY
MARYLAND
MY COMMISSION EXPIRES SEPT. 15, 2013

Notary Public
My Commission Expires: 9-15-13

316786.9
4/6/12
4958-1

WITNESS: **SHIPYARD MARINA II, LLC**

By: _____ (SEAL)
Selvin Passen, M.D.
Managing Member

STATE OF MARYLAND)
) SS:
CITY OF BALTIMORE)

I HEREBY CERTIFY that on this 9th day of April, 2012, before me, a Notary Public of the State of Maryland, personally appeared Selvin Passen, M.D. who acknowledged himself to be the Managing Member of SHIPYARD MARINA II, LLC, and that he as such being authorized to do so, executed the foregoing Agreement for the purposes contained on behalf of the limited liability company.

IN WITNESS WHEREOF, I have hereunto affixed by hand and official seal the day and year first above written.

REBECCA L. DUVALL
NOTARY PUBLIC
BALTIMORE COUNTY
MARYLAND
MY COMMISSION EXPIRES SEPT. 15, 2013

Notary Public
My Commission Expires: 9.15.13

316786.9
4/6/12
4958-1

WITNESS: **LIGHTHOUSE POINT REALTY, LLC**

_____ By: _____ (SEAL)
Selvin Passen, M.D.
Managing Member

STATE OF MARYLAND)
) SS:
CITY OF BALTIMORE)

I HEREBY CERTIFY that on this 9th day of April, 2012, before me, a Notary Public of the State of Maryland, personally appeared Selvin Passen, M.D. who acknowledged himself to be the Managing Member of LIGHTHOUSE POINT REALTY, LLC, and that he as such being authorized to do so, executed the foregoing Agreement for the purposes contained on behalf of the limited liability company.

IN WITNESS WHEREOF, I have hereunto affixed by hand and official seal the day and year first above written.

REBECCA L. DUVALL
NOTARY PUBLIC
BALTIMORE COUNTY
MARYLAND
MY COMMISSION EXPIRES SEPT. 15, 2013

_____
Notary Public
My Commission Expires: 9-15-13

316786.9
4/6/12
4958-1

SCHEDULE A

Pier-Based Promenade Plans

Lighthouse Point

New Fixed Promenade at the Moorings

Baltimore, Maryland

LIST OF DRAWINGS

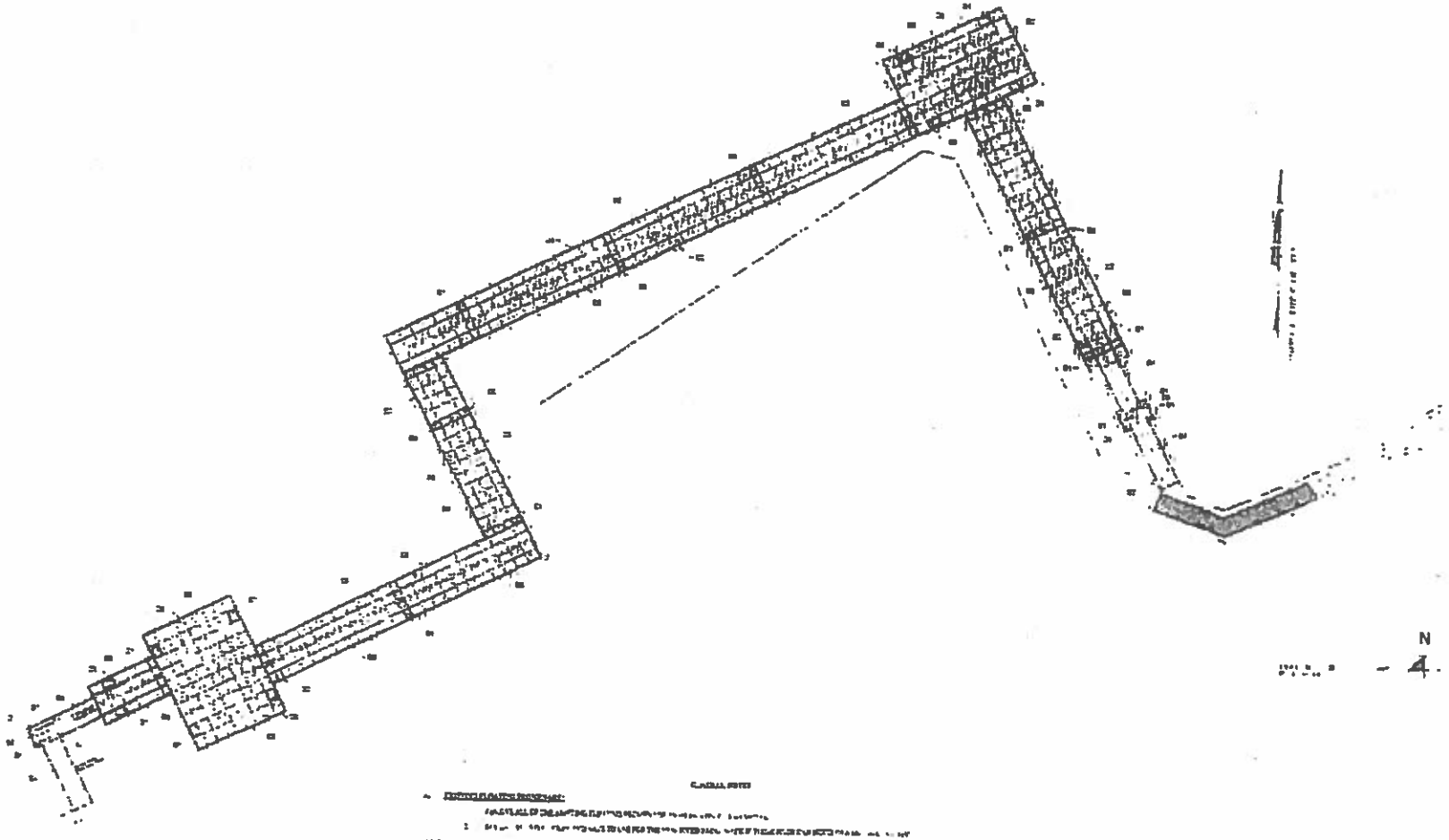
CS	COVER SHEET
D100	EXISTING/DEMOLITION PLAN
D101	EXISTING CONDITION PHOTOS
D102	EXISTING CONDITION PHOTOS
D103	EXISTING CONDITION PHOTOS
A101	NEW PROMENADE LAYOUT - OVERALL PLAN
A102	NEW PROMENADE PLAN - WEST SECTION
A103	NEW PROMENADE PLAN - EAST SECTION
A104	TYPICAL SECTION
S100	OVERALL STRUCTURAL FRAMING PLAN
S101	STRUCTURAL FRAMING PLAN
S102	STRUCTURAL FRAMING PLAN
S103	STRUCTURAL NOTES AND DETAILS
S104	STRUCTURAL DETAILS

Lewis/Brown & Associates, Inc.

Lighthouse Point
New Promenade
Baltimore, Maryland

COVER SHEET

CS

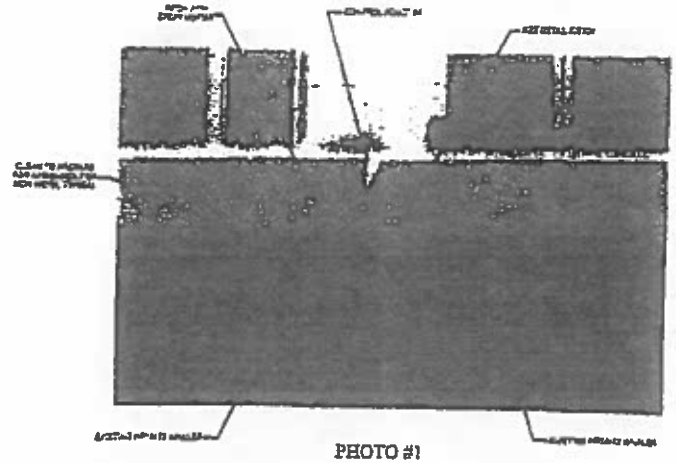


Lighthouse Point
New Promenade
Hilton Head

EXISTING/DEMOLITION PLAN

Levin/Brown & Associates, Inc.

D100



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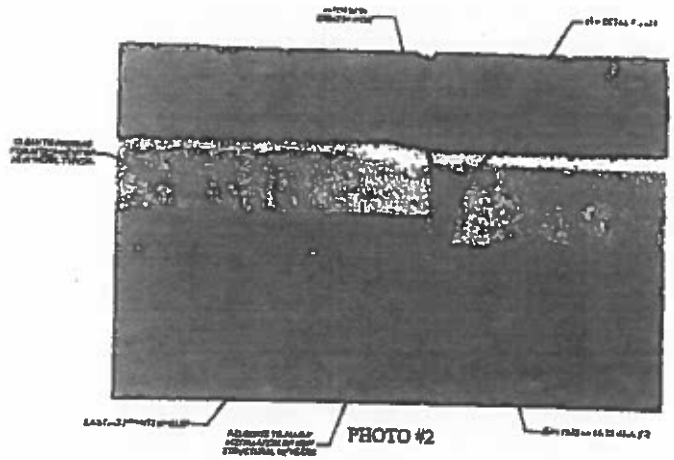

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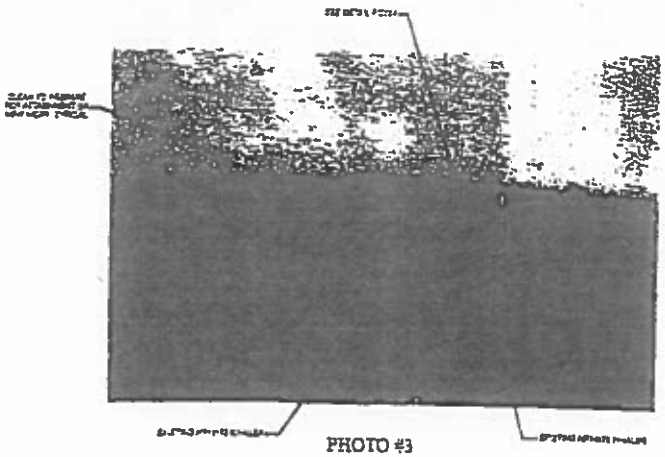

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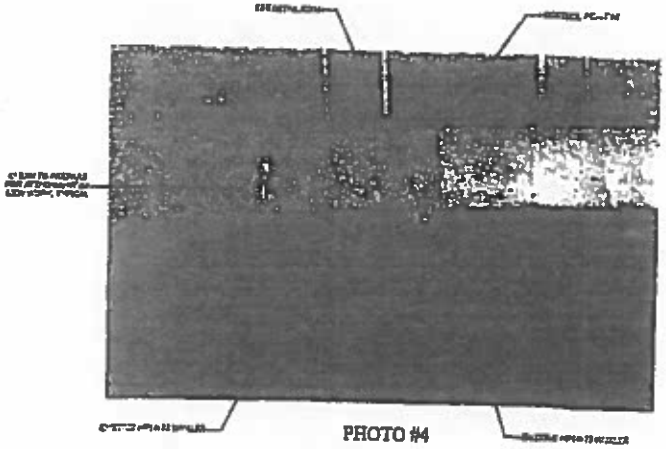


PHOTO #4

Lighthouse Point
New Promenade
Baltimore Maryland

EXISTING CONDITION PHOTOS

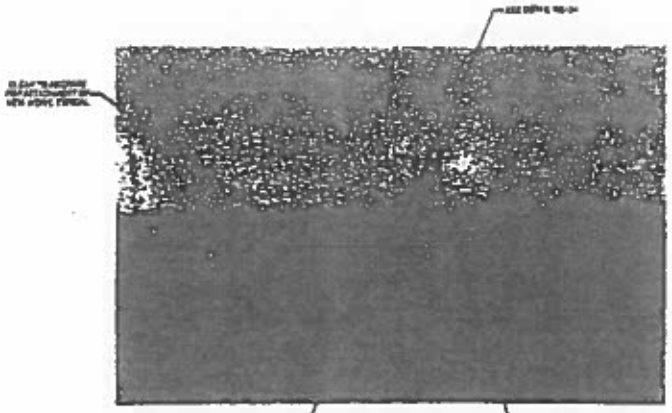
Lewis Brown & Associates, Inc.

D101

Levin/Green & Associates, Inc.

Lighthouse Point
New Promenade
Baltimore Maryland

EXISTING CONDITION PHOTOS



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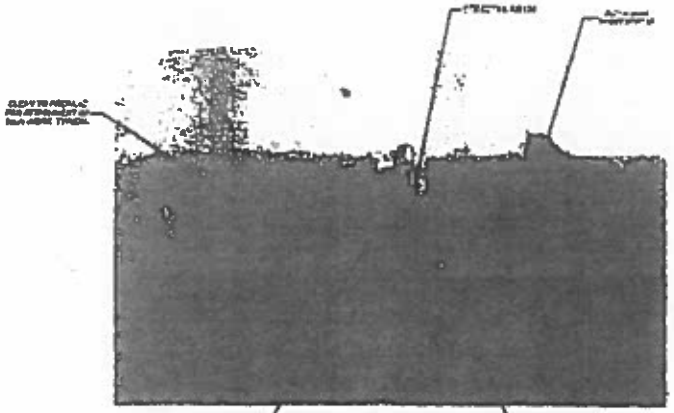

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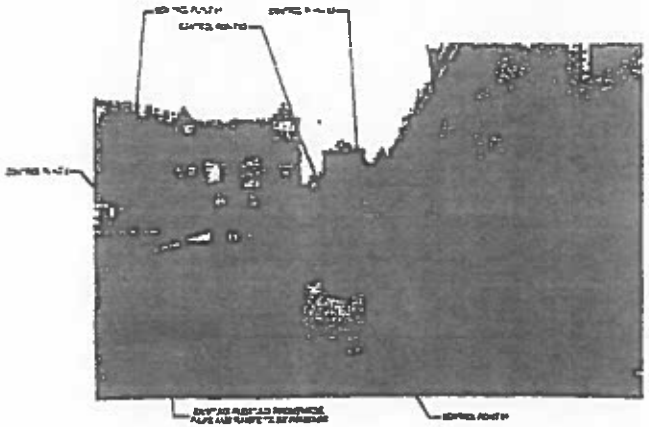

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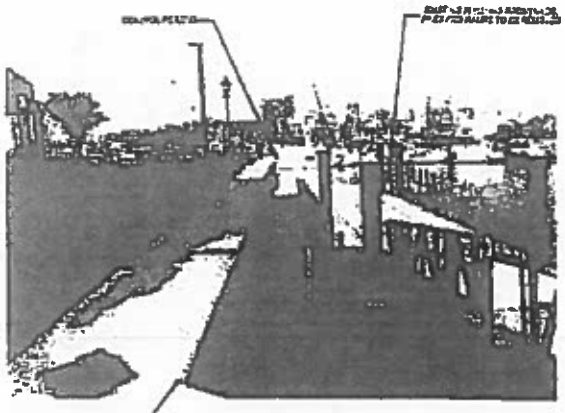


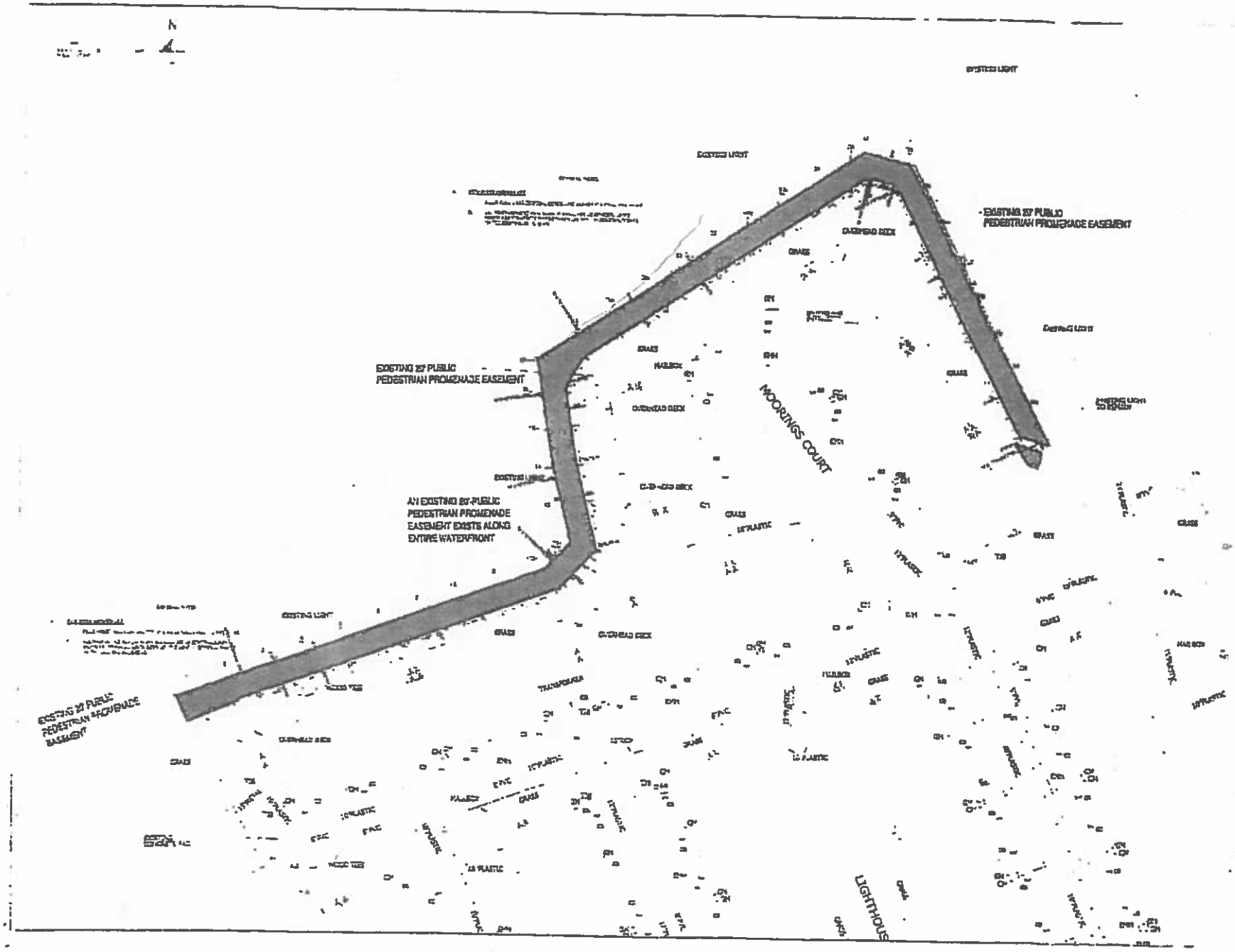
PHOTO #12

Lighthouse Point
New Promenade
Baltimore, Maryland

EXISTING CONDITION PHOTOS

Levin/Brown & Associates, Inc.

D103

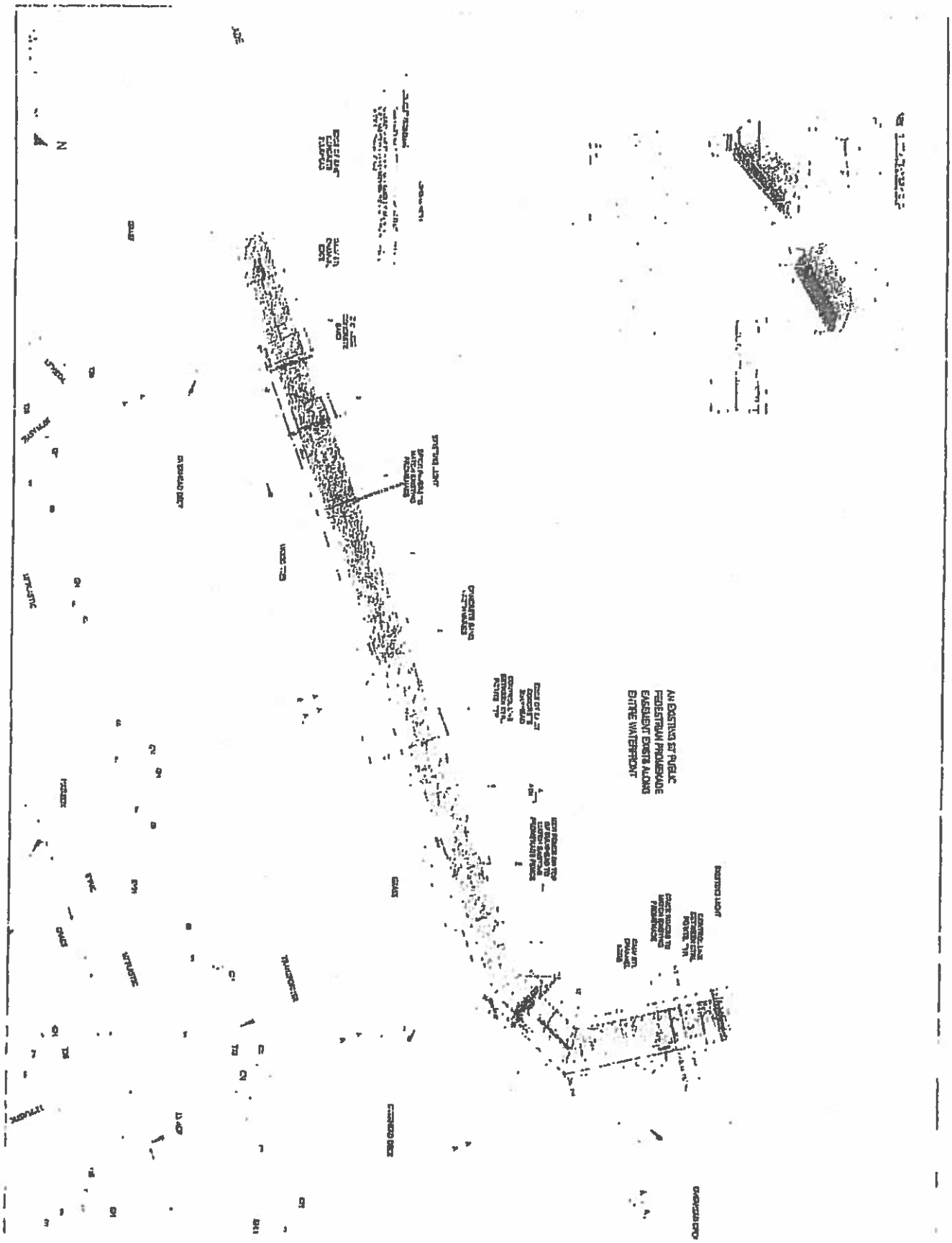


Lighthouse Point
New Promenade
Baltimore Maryland

NEW PROMENADE LAYOUT - OVERALL PLAN

Lewis/Brown & Associates, Inc.

A101



A102

Levin/Brown & Associates, Inc.

Lighthouse Point
New Promenade
Baltimore Maryland

NEW PROMENADE PLAN - WEST SECTION

A103

Levin/Brown & Associates, Inc.

Lighthouse Point
New Promenade
Baltimore Maryland

NEW PROMENADE PLAN - EAST SECTION

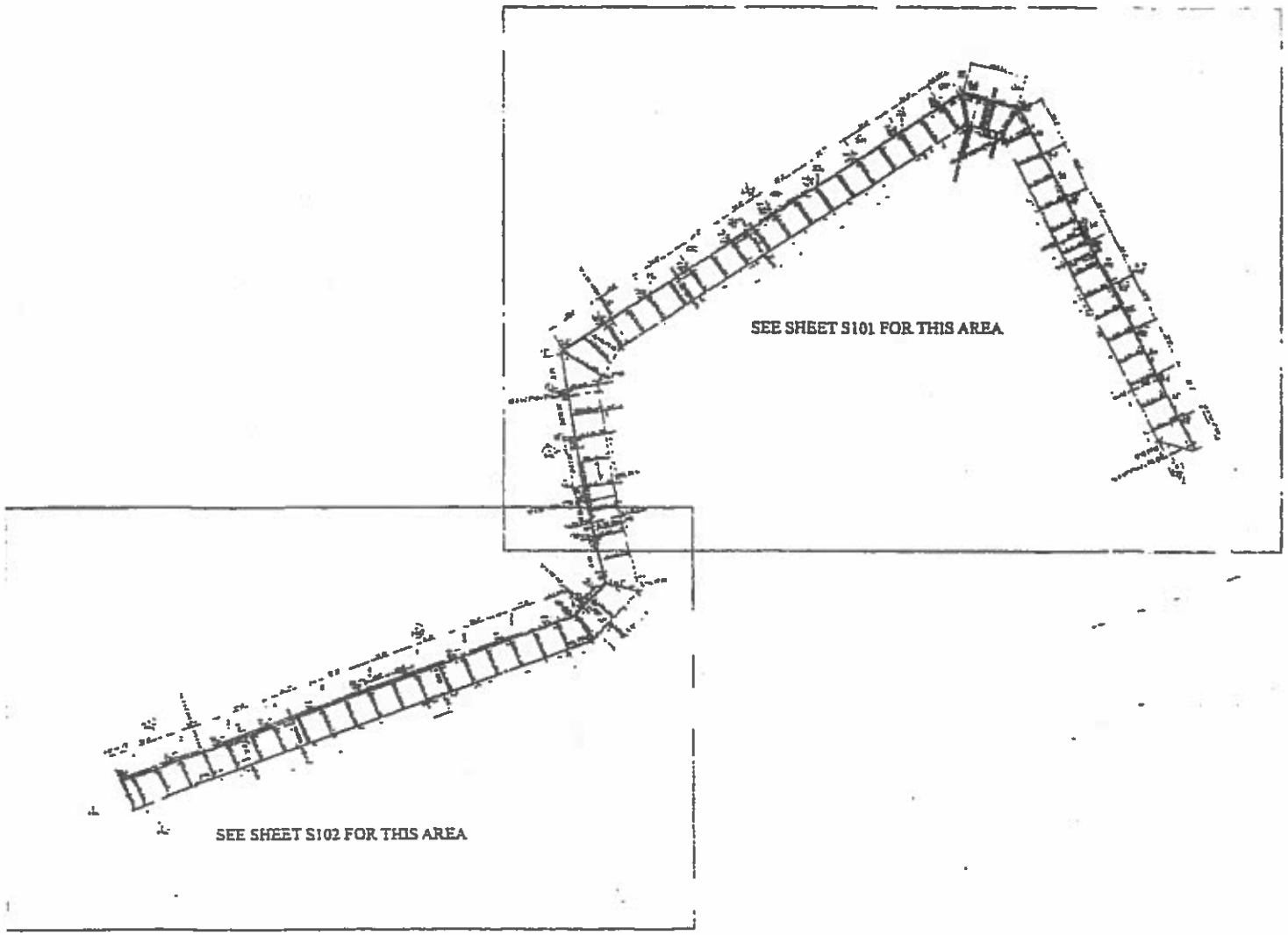
A TYPICAL CROSS SECTION

A104

Levin/Bruno & Associates, Inc.

Lighthouse Point
New Promenade
Bethany Maryland

TYPICAL SECTIONS

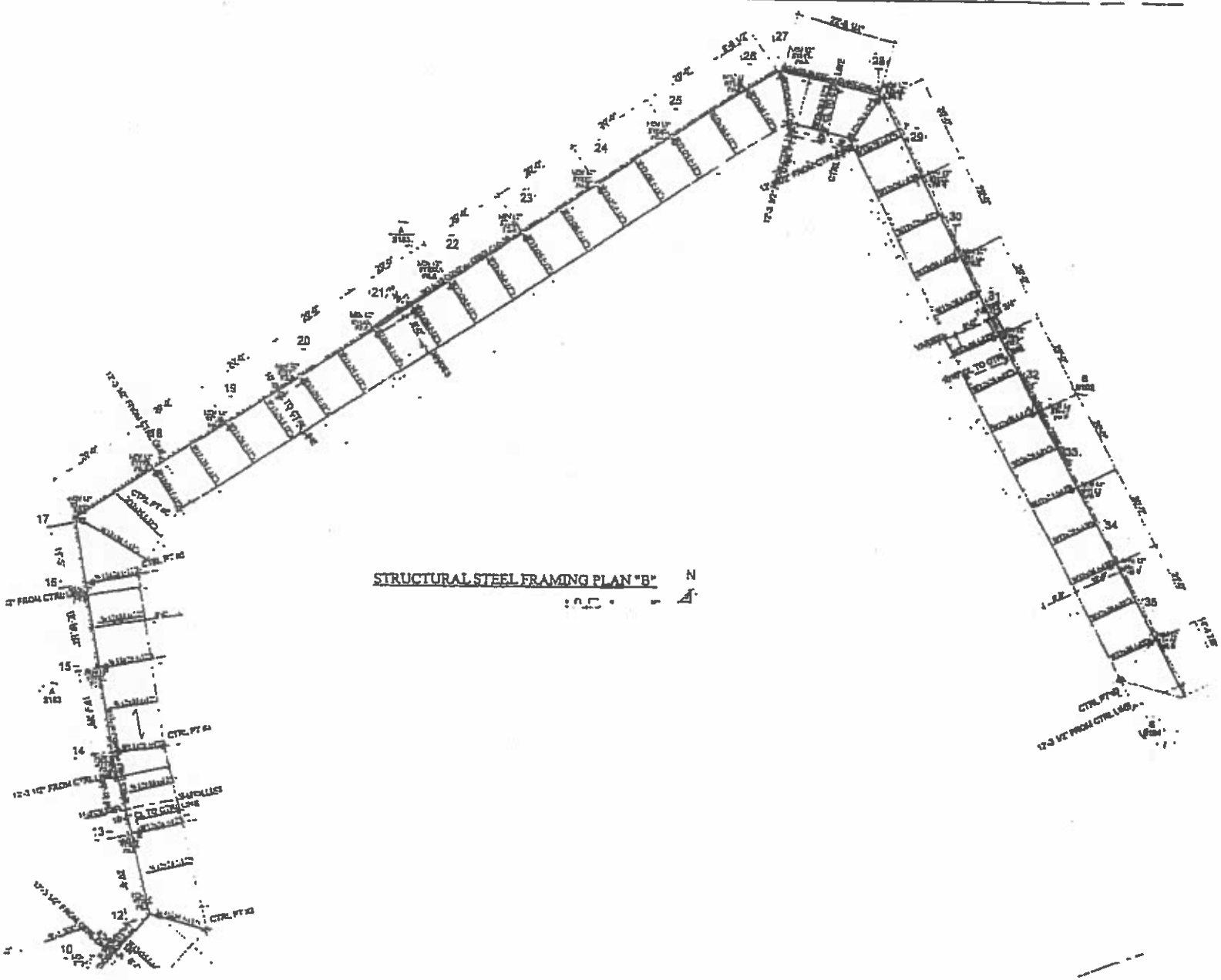


Lighthouse Point
New Freemansie
Baltimore, Maryland

Overall Structural Framing Plan

Levin/Brown & Associates, Inc.

S100

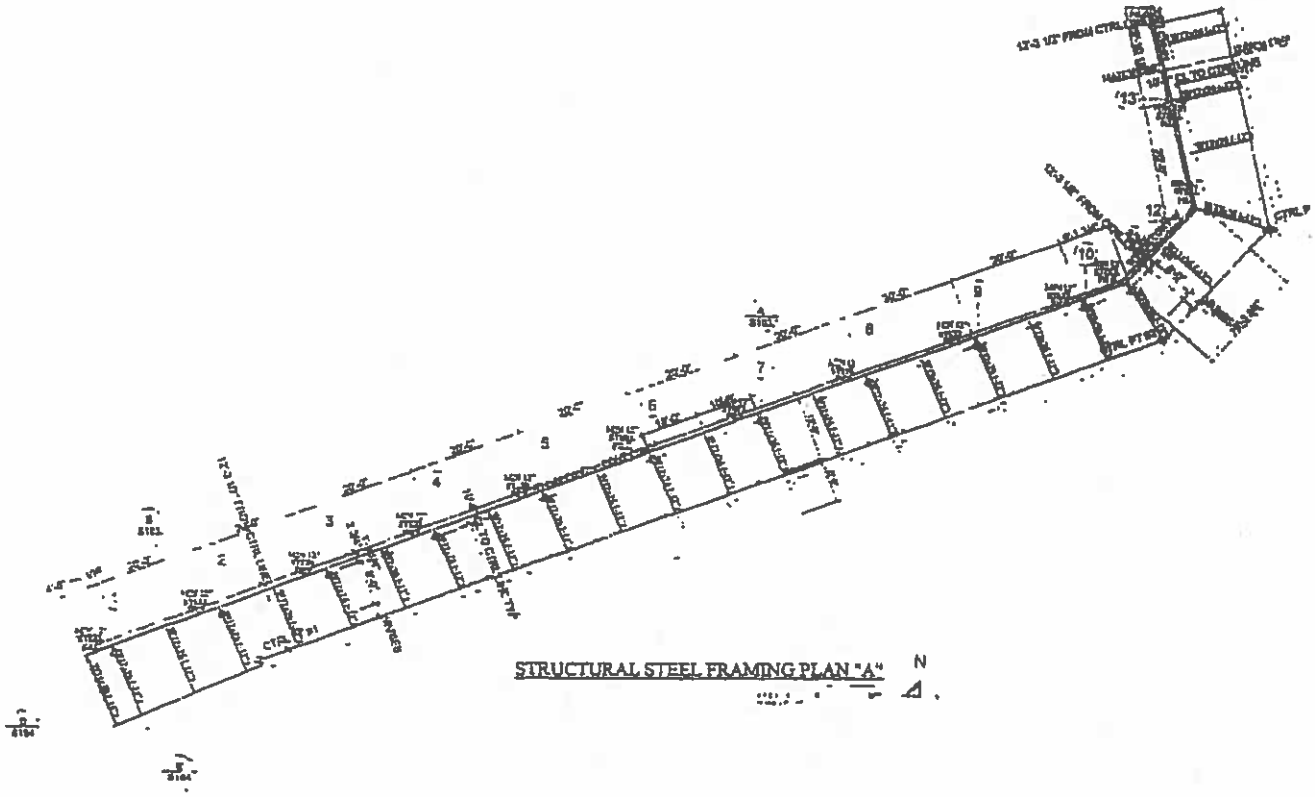


Lighthouse Point
New Promenade
Delaware Maryland

Structural Framing Plan

Levin/Brown & Associates, Inc.

S101



STRUCTURAL STEEL FRAMING PLAN "A"

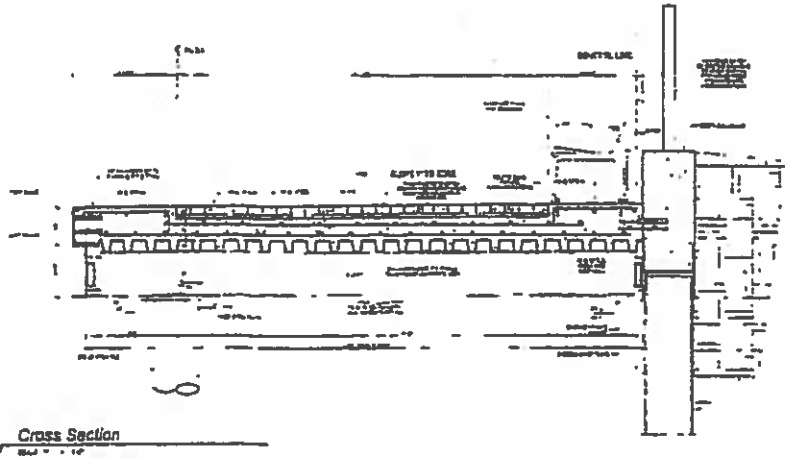
N

Lighthouse Point
New Promenade
Baltimore, Maryland

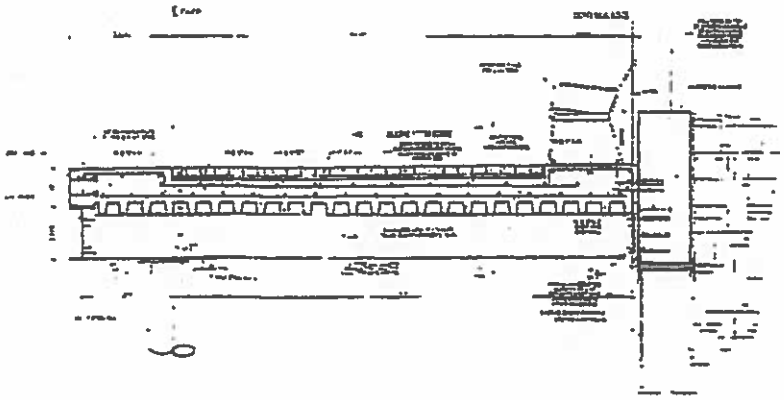
Structural Framing Plan

Levin/Brown & Associates, Inc.

S102



A Cross Section



B Cross Section 2

STRUCTURAL SPECIFICATIONS

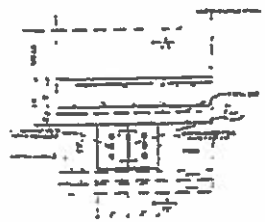
[illegible]

Lighthouse Point
New Procomonde
Bottom Marina

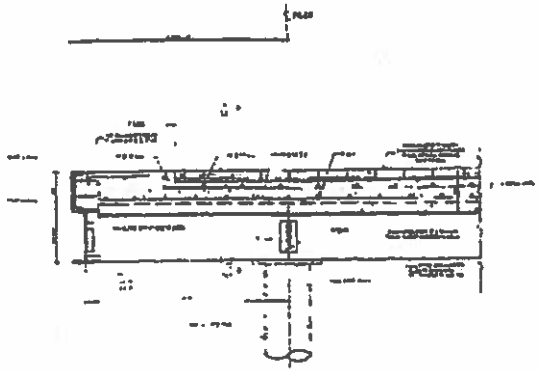
Structural Notes And Details

Levin/Brown & Associates, Inc.

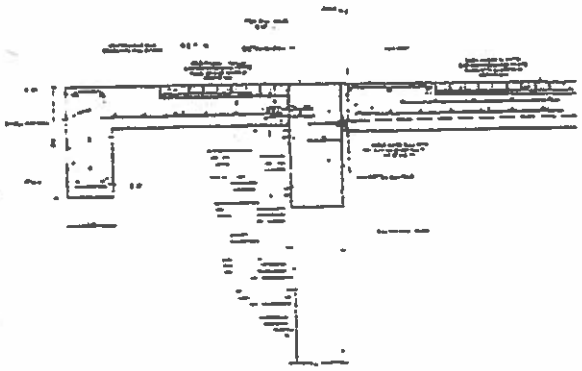
S103



C CONNECTION DETAIL

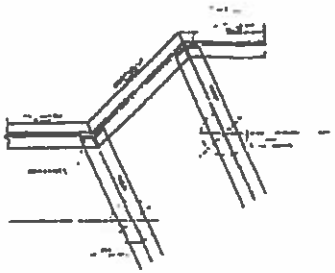


D End Condition



E Section Detail - Transition at Existing

F Typical Detail at Wheler Plate



G Typical Plan at Mitered Corners

Lighthouse Point
New Promenade
Ocean City, Maryland
Structural Details

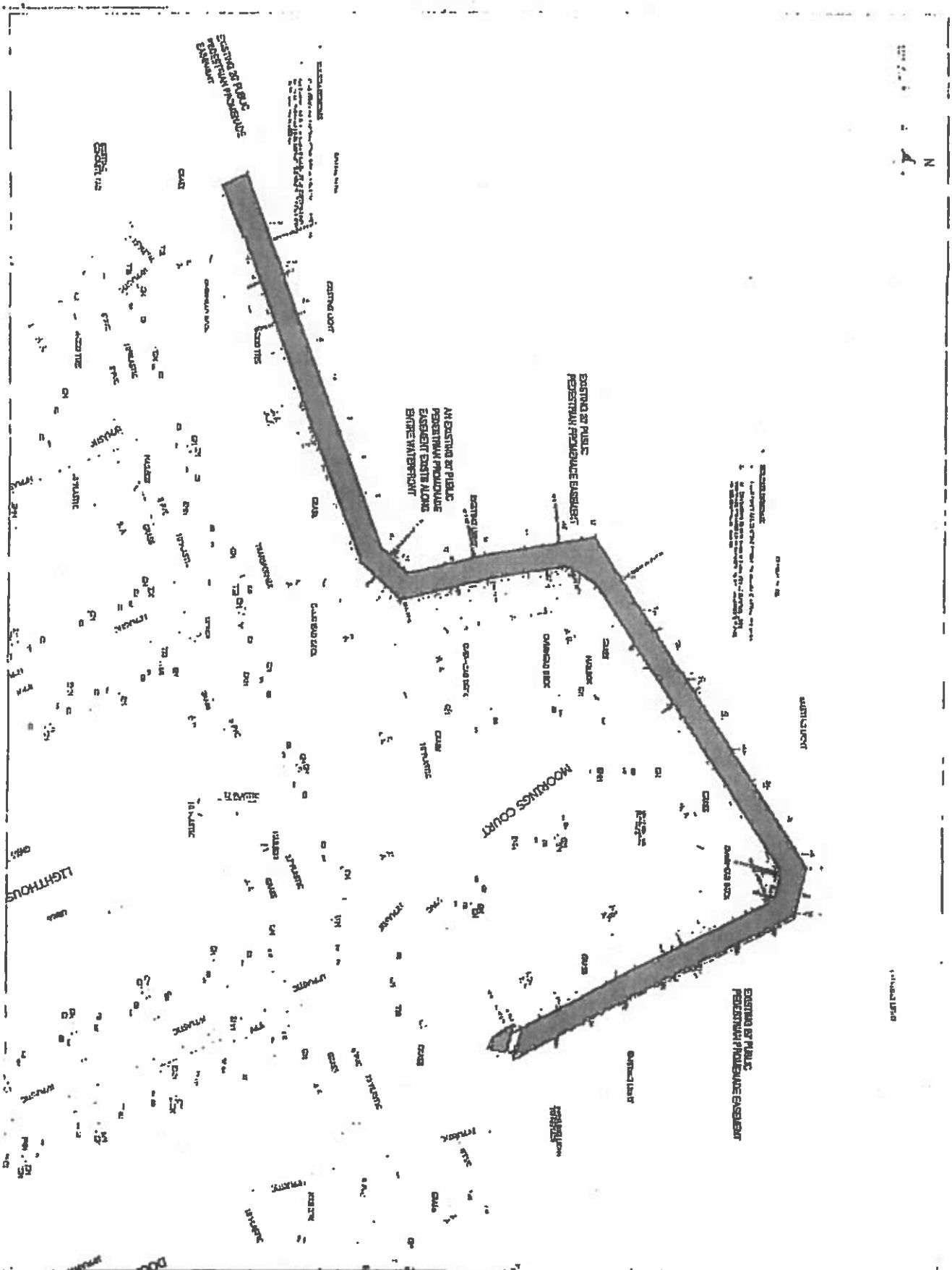
Lewis/Rivers & Associates, Inc.

S104

SCHEDULE B

Drawing of Pier-Based Promenade Area

Schedule B



A101

Leon/Brown & Associates, Inc.

Lighthouse Point
New Promenade
Baltimore, Maryland

NEW PROMENADE LAYOUT - OVERALL PLAN

SCHEDULE C TO

FIRST AMENDMENT TO PEDESTRIAN PROMENADE EASEMENT AGREEMENT AND GRANT OF EASEMENT RIGHTS

BY AND BETWEEN

MOORINGS AT CANTON HOMEOWNERS ASSOCIATION, INC.

LIGHTHOUSE POINT REALTY, LLC,

SHIPYARD MARINA, LLC

SHIPYARD MARINA II, LLC

AND

THE MAYOR AND CITY COUNCIL OF BALTIMORE

PARTIES TO WHOM ALL NOTICES SHALL BE SENT

1. Selvin Passen, M.D.
   East Harbor Marine Center, L.L.C.
   Moorings at Canton, LLC
   Lighthouse Point Realty, LLC
   Suite 626, 2700 Lighthouse Point East
   Baltimore, Maryland 21224

2. Robert T. Shaffer, III
   Zuckerman Spaeder LLP
   100 E. Pratt Street
   Suite 2440
   Baltimore, Maryland 21201

3. Kevin J. Pascale
   Rosenberg | Martin | Funk | Greenberg, LLP
   25 South Charles Street, Suite 2115
   Baltimore, MD 21201-3305

4. Thomas C. Stosur
   Baltimore City Department of Planning
   417 East Fayette Street, 8th Floor
   Baltimore, Maryland 21202

5. George Nilson
City Solicitor
Baltimore City Law Department
City Hall
100 N. Holliday Street
Baltimore, Maryland 21201

6. Moorings at Canton Homeowner's Association, Inc.
c/o Brian Krizek
Alliance Management Group
217 East Churchville Road
Bel Air, Maryland 21014

7. Richard Rubin
Neuberger Quinn Gielen Rubin & Gibber, P.A.
One South Street, 27th Floor
Baltimore, Maryland 21202

8. Paul T. Graziano
Commissioner of Housing
417 E. Fayette Street, Suite 1336
Baltimore, Maryland 21202

SCHEDULE A

Pier-Based Promenade Plans

Lighthouse Point

New Fixed Promenade at the Moorings

Baltimore, Maryland

LIST OF DRAWINGS

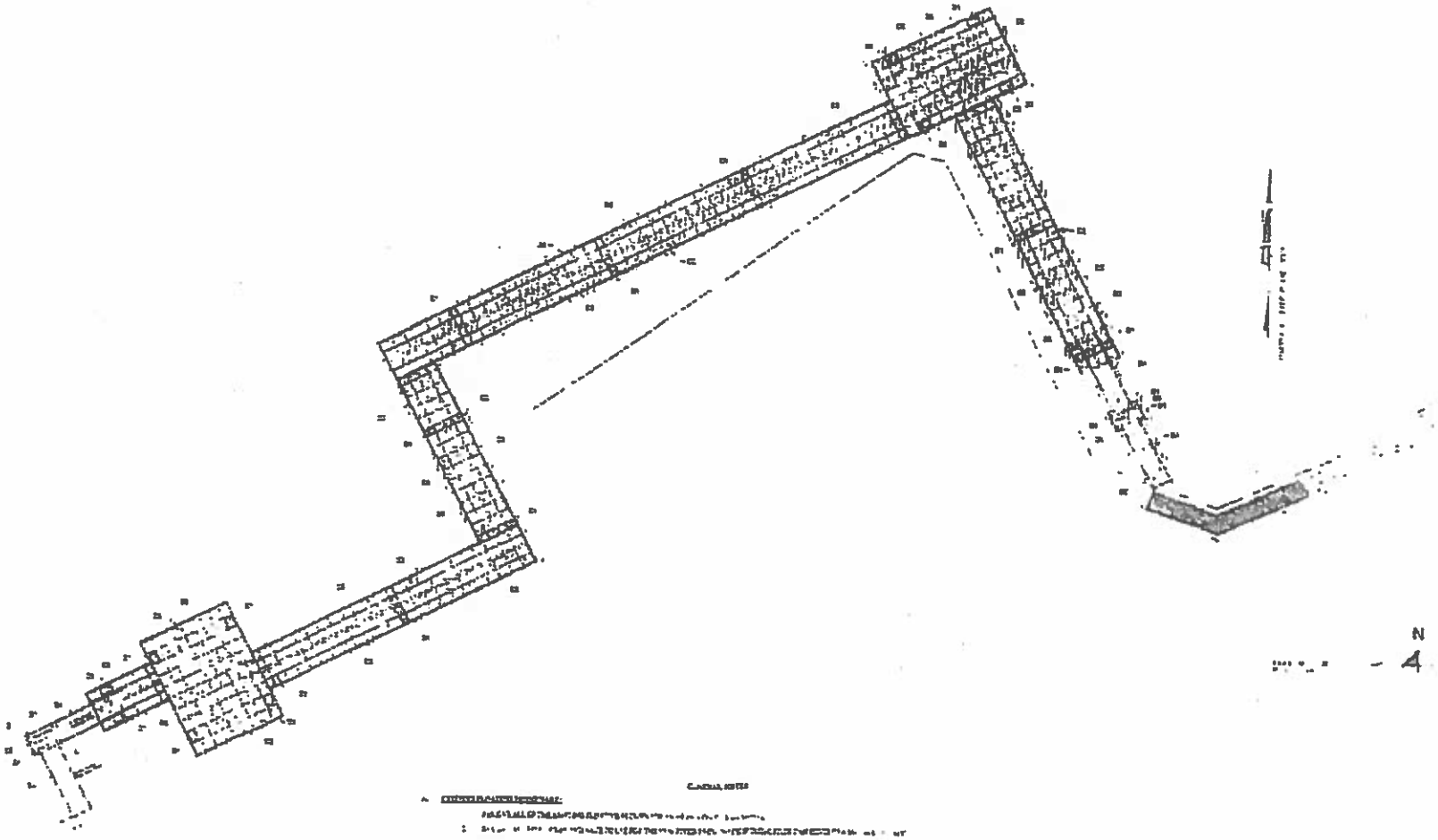
CS	COVER SHEET
D100	EXISTING/DEMOLITION PLAN
D101	EXISTING CONDITION PHOTOS
D102	EXISTING CONDITION PHOTOS
D103	EXISTING CONDITION PHOTOS
A101	NEW PROMENADE LAYOUT - OVERALL PLAN
A102	NEW PROMENADE PLAN - WEST SECTION
A103	NEW PROMENADE PLAN - EAST SECTION
A104	TYPICAL SECTION
S100	OVERALL STRUCTURAL FRAMING PLAN
S101	STRUCTURAL FRAMING PLAN
S102	STRUCTURAL FRAMING PLAN
S103	STRUCTURAL NOTES AND DETAILS
S104	STRUCTURAL DETAILS

Lewis/Brown & Associates, Inc.

Lighthouse Point
New Promenade
Baltimore Maryland

COVER SHEET

CS

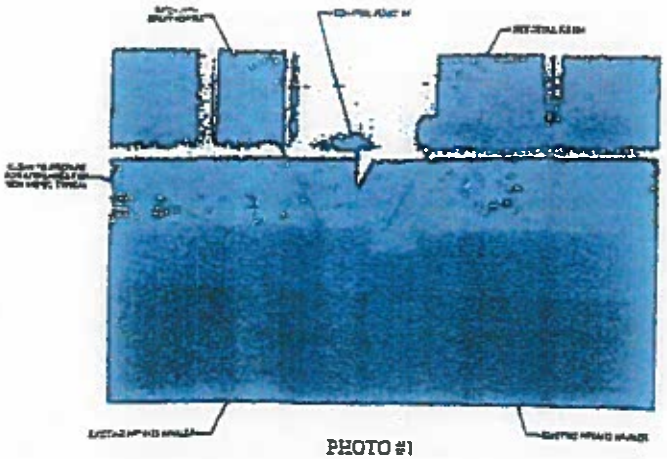


Levin/Brown & Associates, Inc.

Lighthouse Point
New Promenade
Baltimore Maryland

EXISTING/DEMOLITION PLAN

D100



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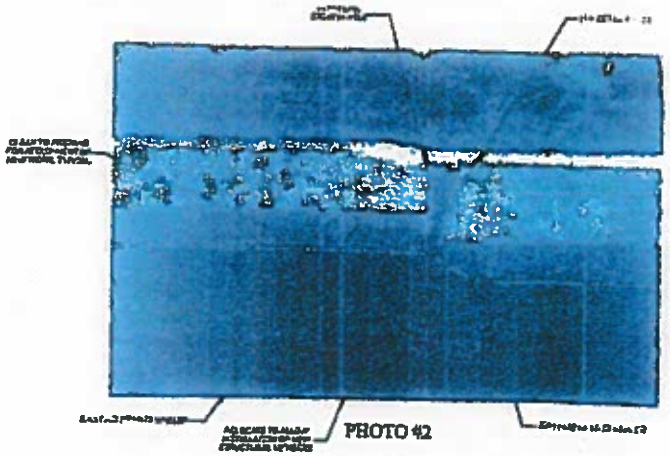

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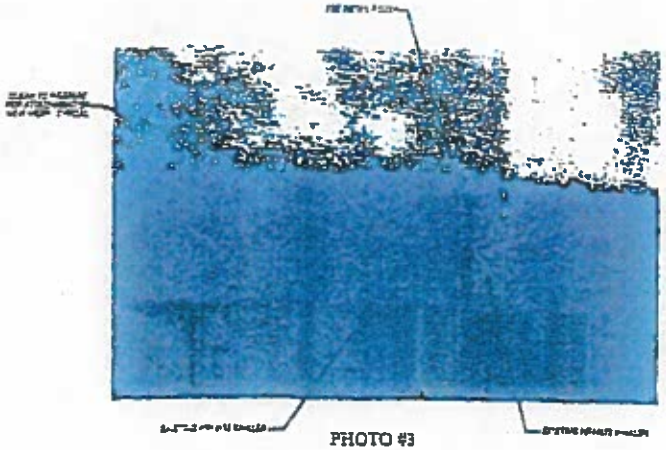

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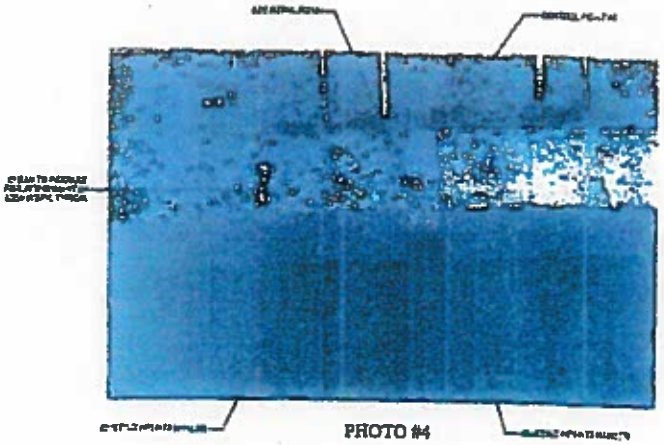


PHOTO #4

Lighthouse Point
New Promenade
Baltimore Maryland

EXISTING CONDITION PHOTOS

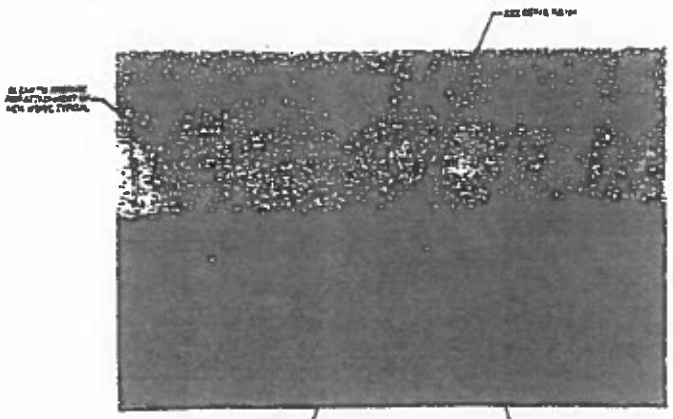
Lewis/Brown & Associates, Inc.

D101

Levin/Bonn & Associates, Inc.

Lighthouse Point
New Promenade
Baltimore Maryland

EXISTING CONDITION PHOTOS



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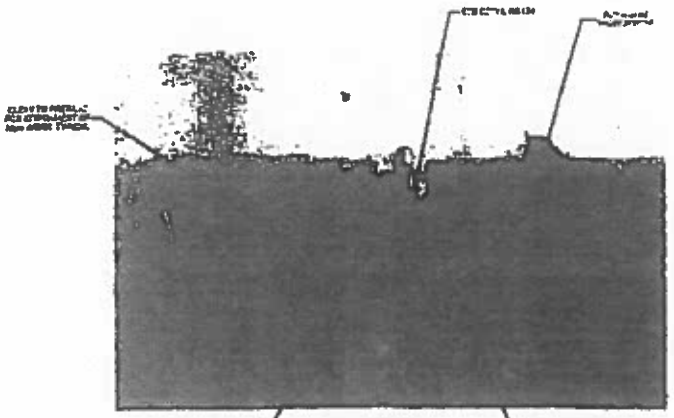

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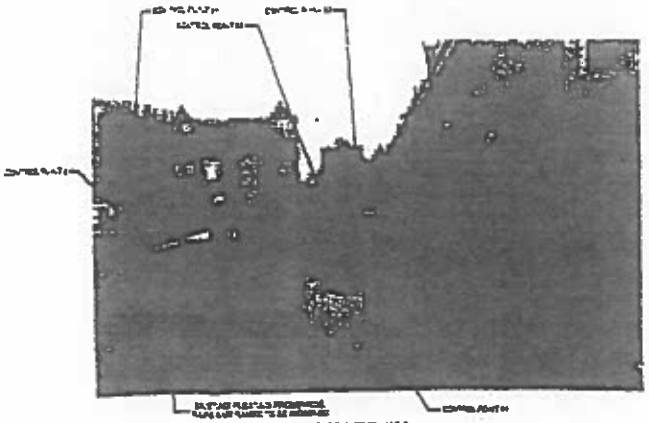

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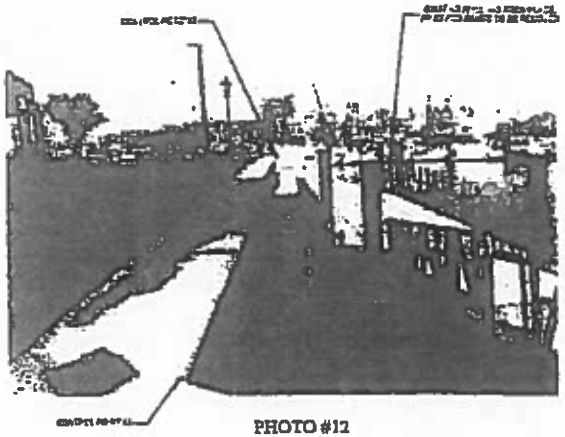


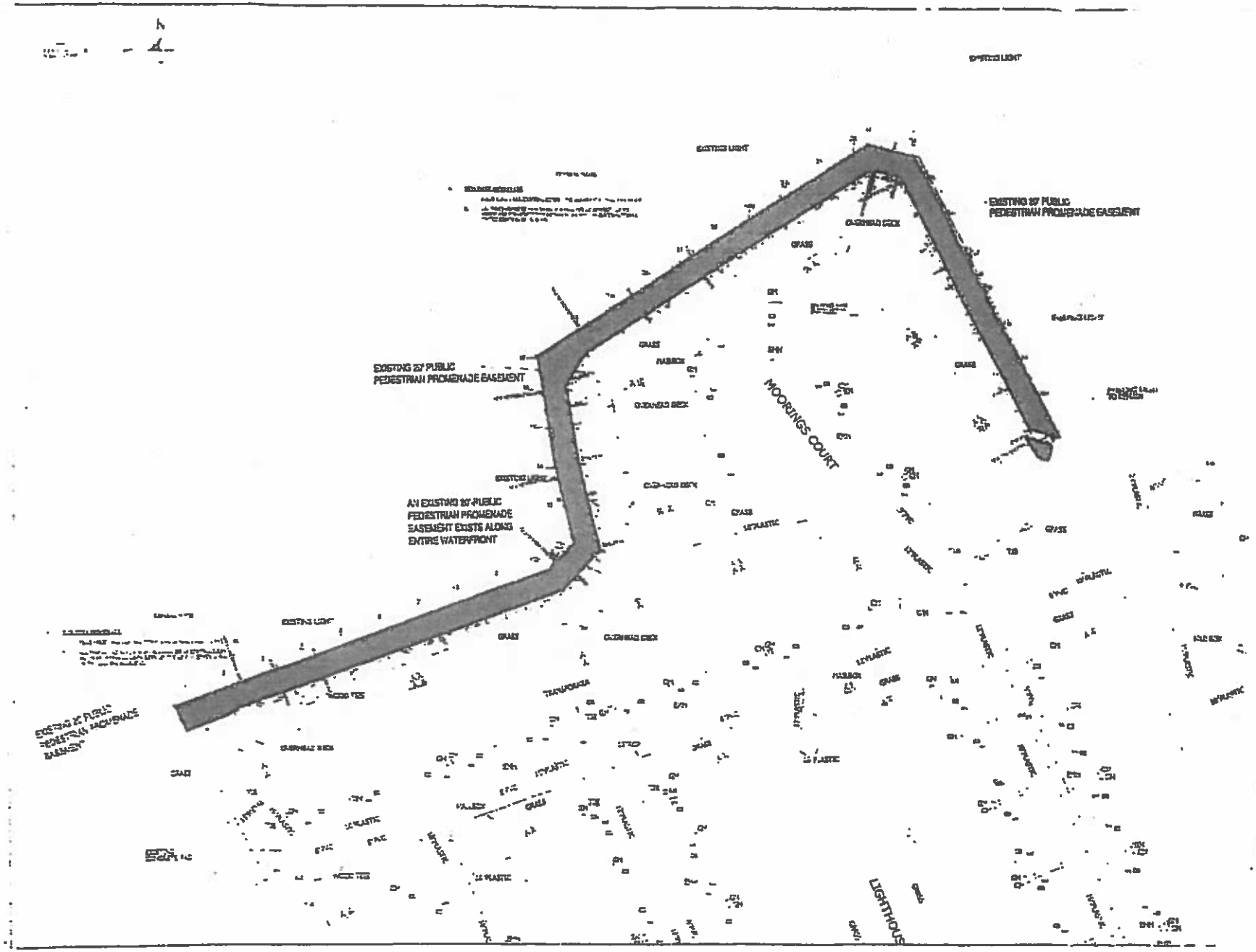
PHOTO #12

Lighthouse Point
New Promenade
Bellam Harbor

EXISTING CONDITION PHOTOS

Levin-Brown & Associates, Inc.

D103

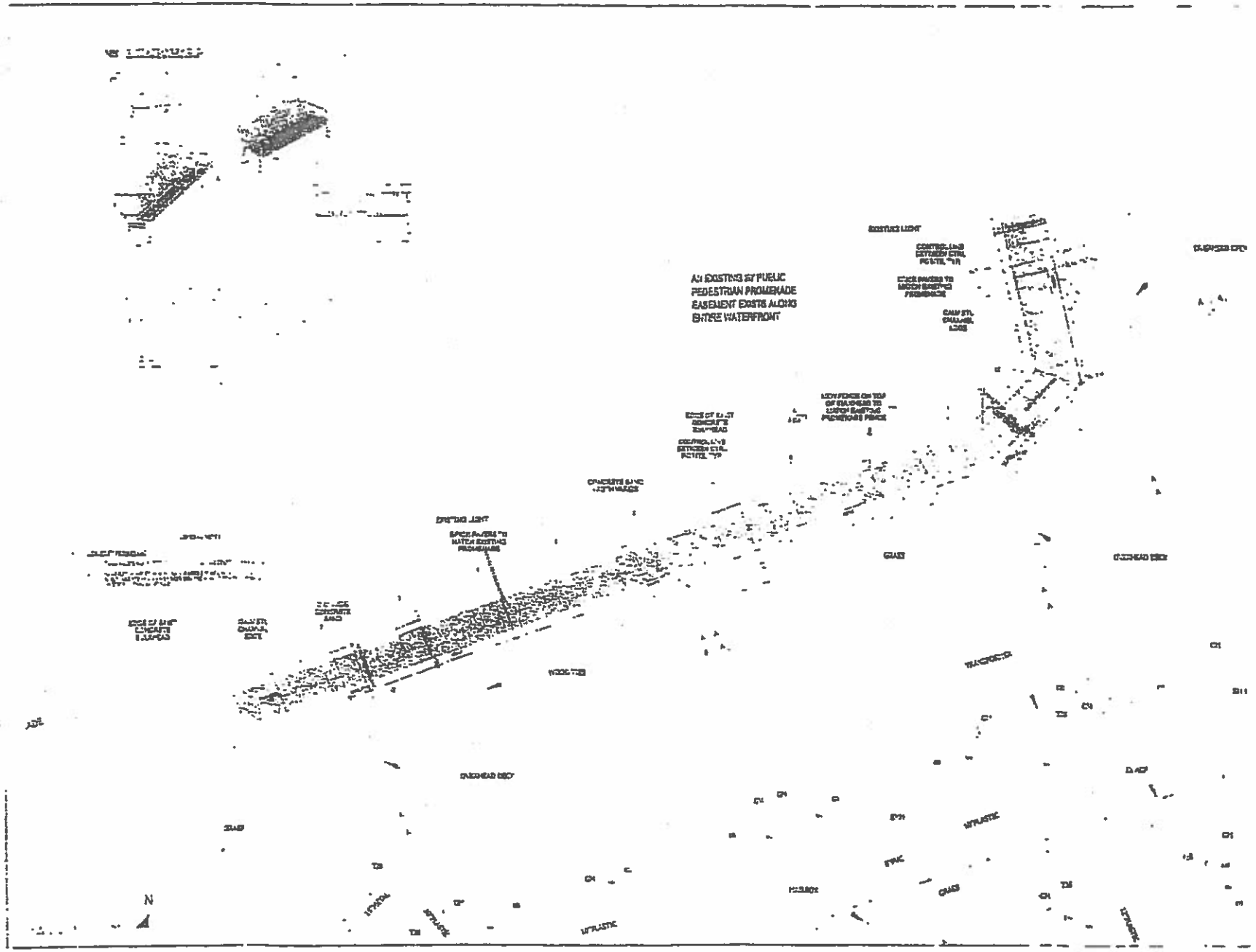


Lighthouse Point
New Promenade
Baltimore Maryland

NEW PROMENADE LAYOUT - OVERALL PLAN

Lewis/Brown & Associates, Inc.

A101



Lighthouse Point
New Promenade
Baltimore, Maryland

NEW PROMENADE PLAN - WEST SECTION

Levin/Brown & Associates, Inc.

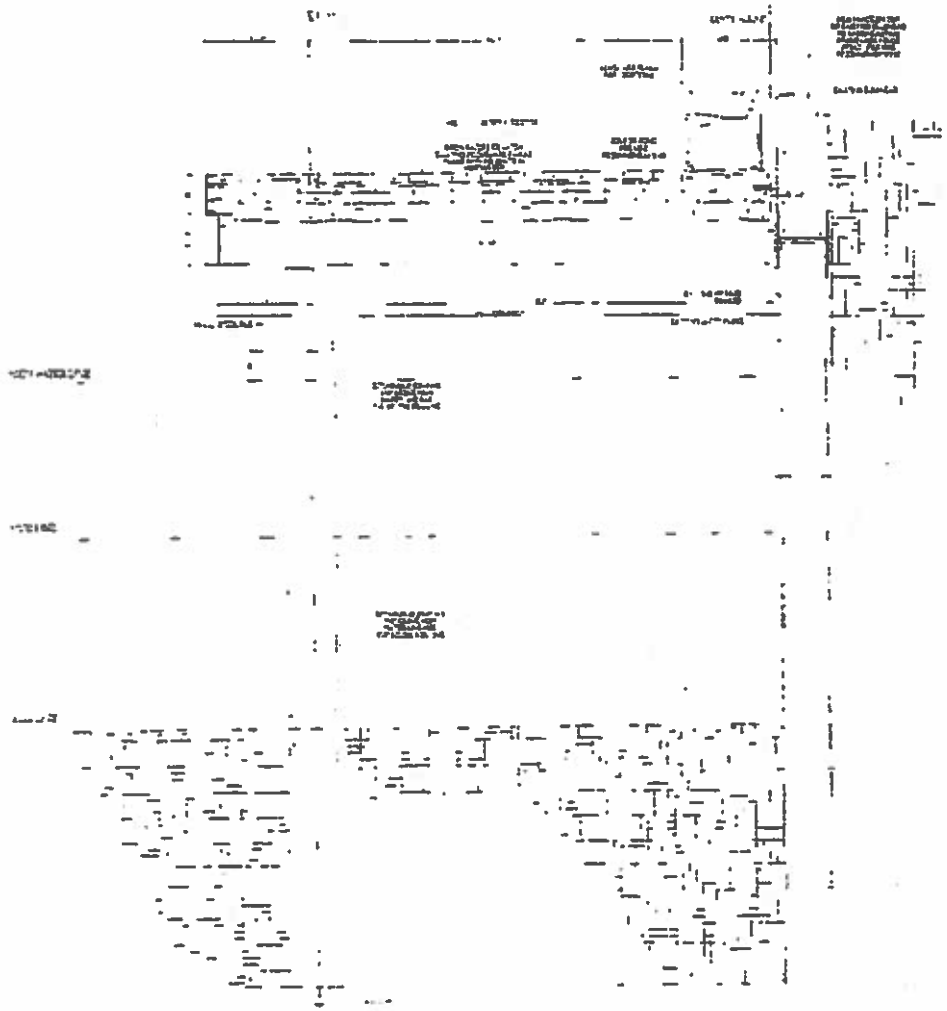
A102

A103

Levin/Brown & Associates, Inc.

Lighthouse Point
New Promenade
Baltimore Maryland

NEW PROMENADE PLAN - EAST SECTION



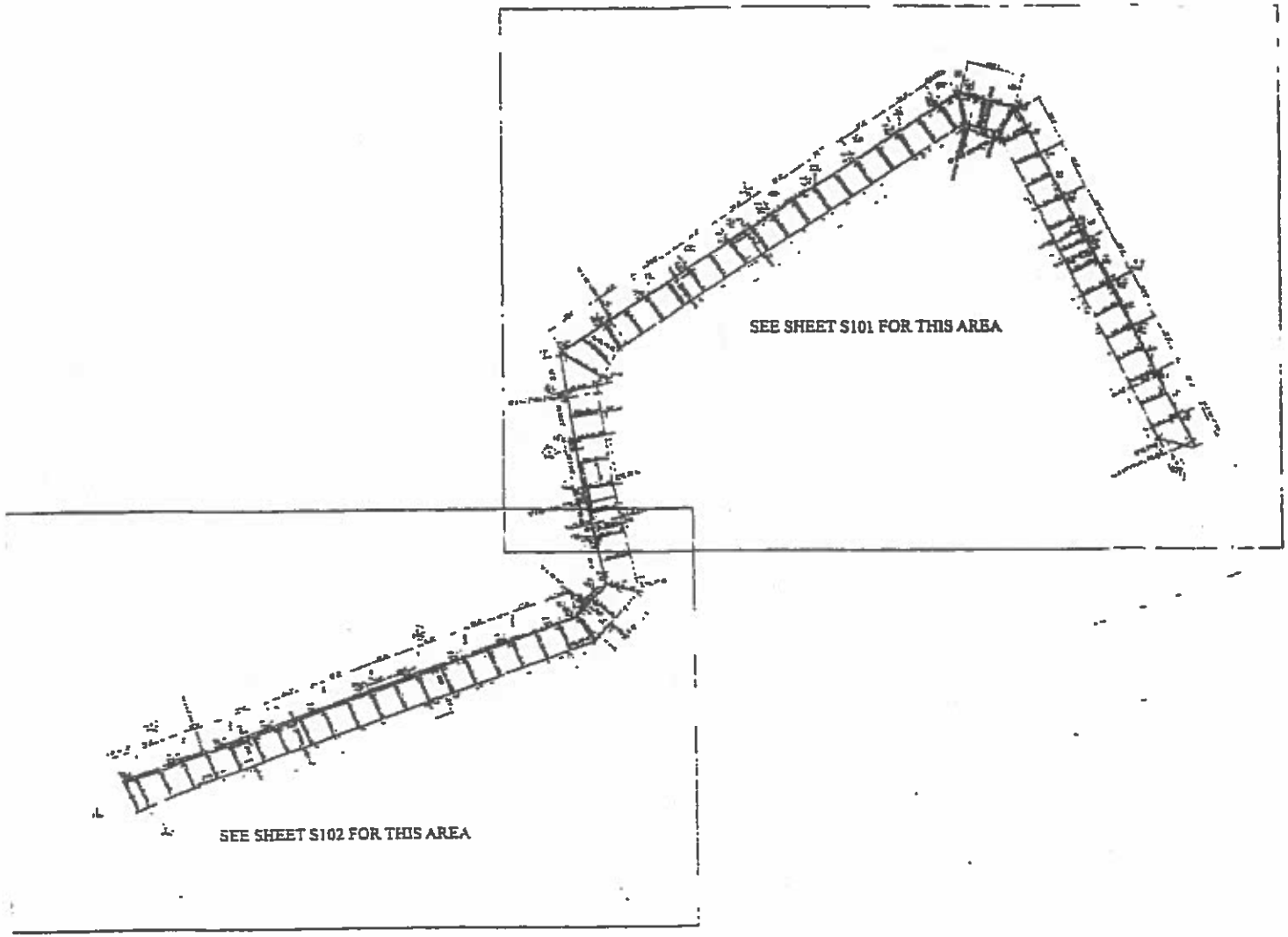
A TYPICAL CROSS SECTION

Lighthouse Point
New Promenade
Baltimore Maryland

TYPICAL SECTIONS

LorinBrown & Associates, Inc.

A104

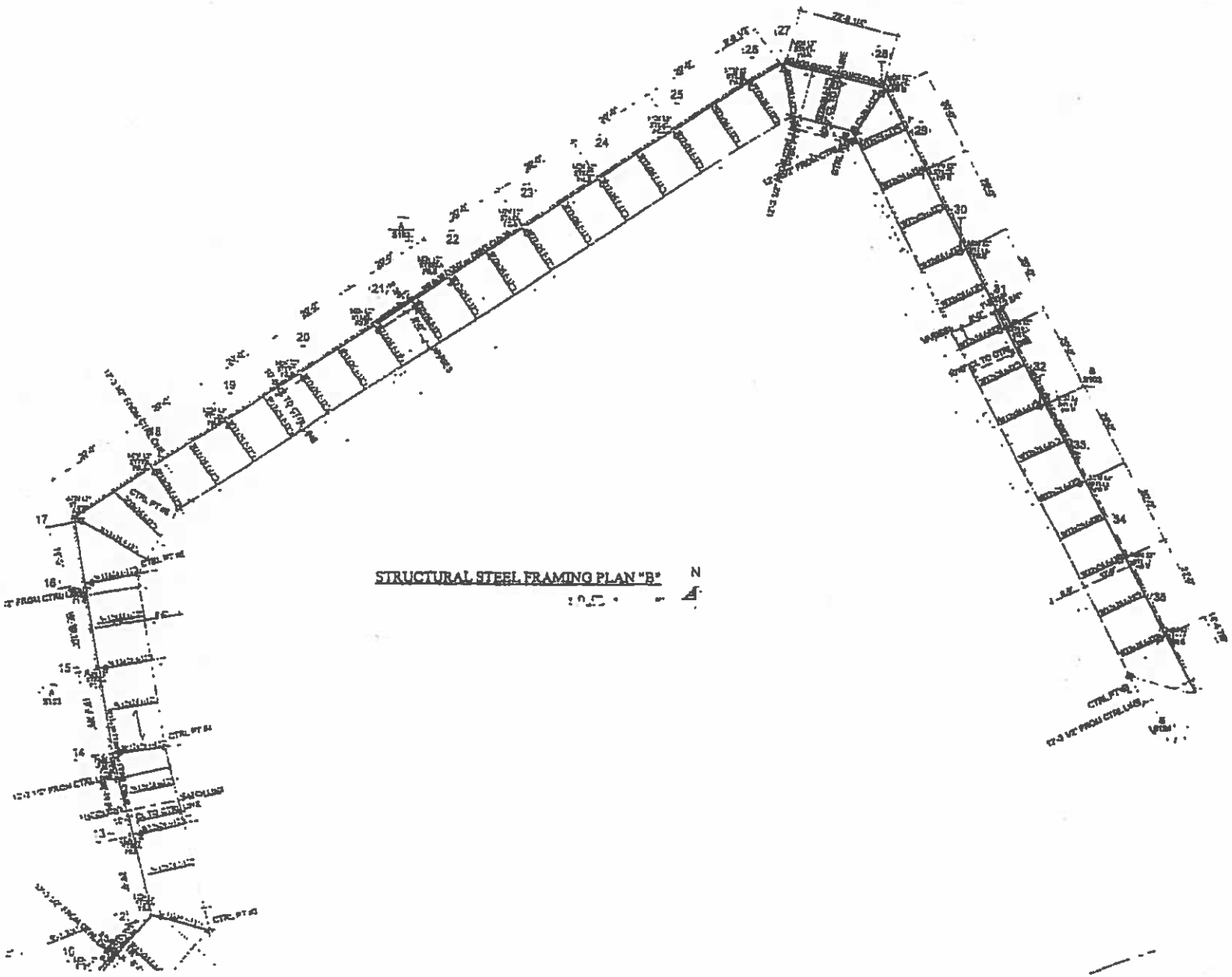


Lighthouse Point
New Freemanville
Baltimore Maryland

Overall Structural Framing Plan

Levin/Brown & Associates, Inc

S100

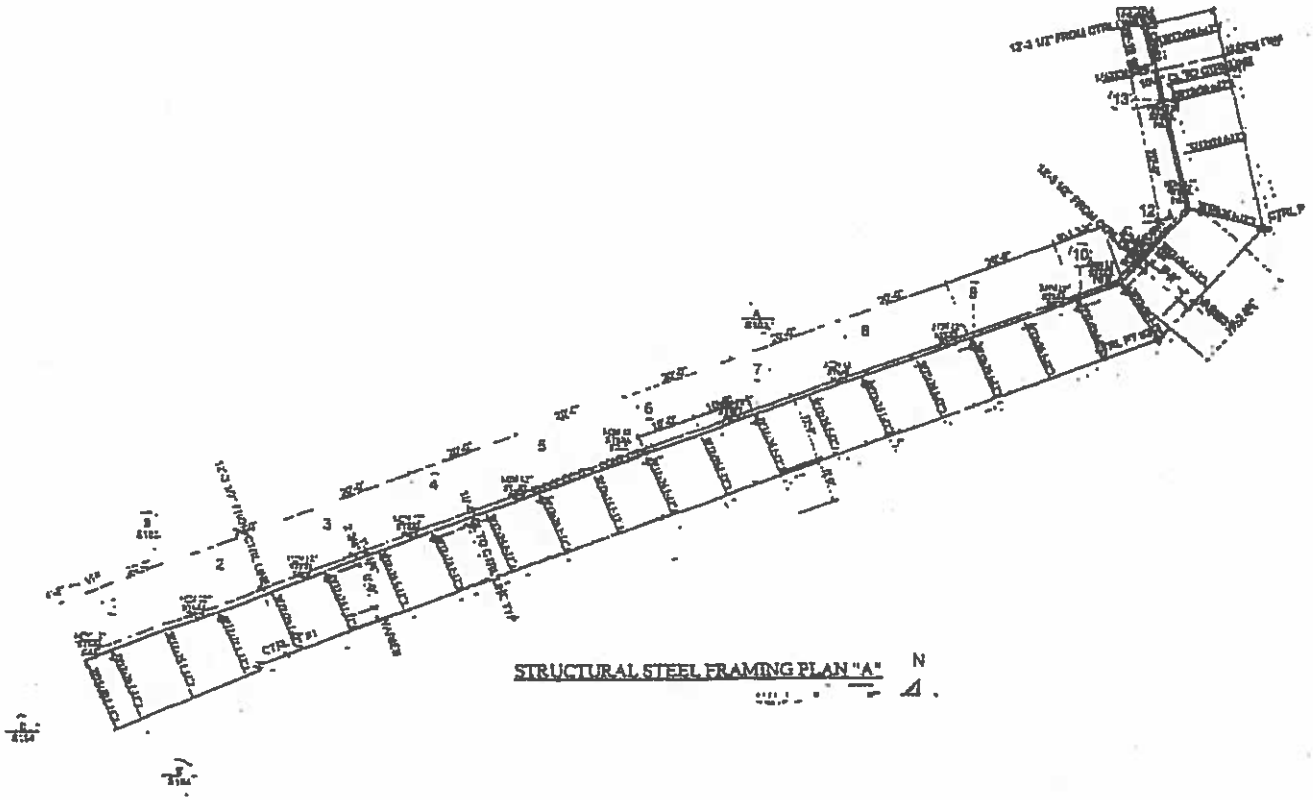


Lighthouse Point
New Promenade

Structural Framing Plan

Levin/Brown & Associates, Inc.

S101

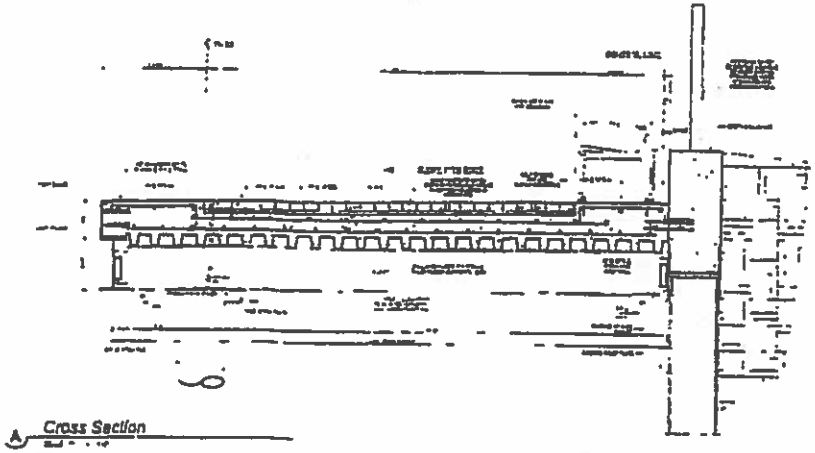


Lighthouse Point
New Promenade
Baltimore, Maryland

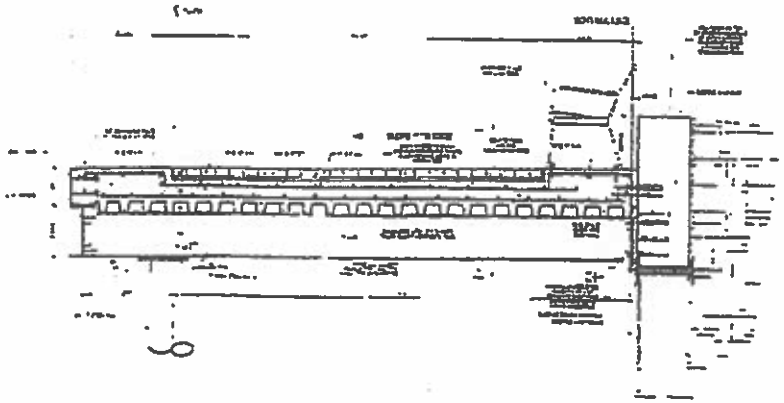
Structural Framing Plan

Levin/Brown & Associates, Inc.

S102



A Cross Section



B Cross Section 2

STRUCTURAL SPECIFICATIONS

[illegible]

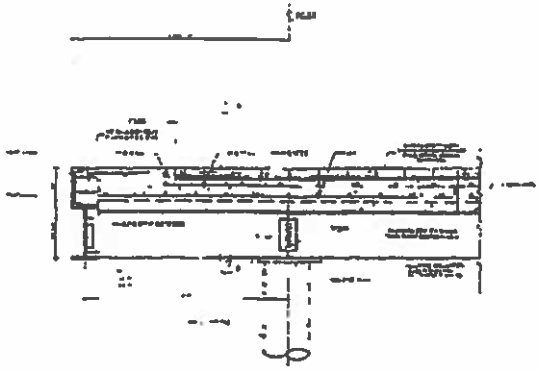
Lighthouse Point
New Promenade
Baltimore Maryland

Structural Notes And Details

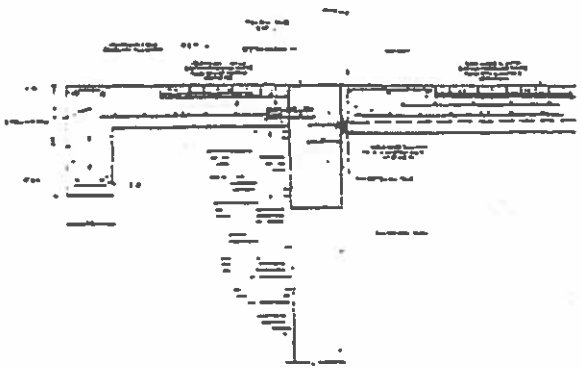
LewisBrown & Associates, Inc.

S103

C CONNECTION DETAIL

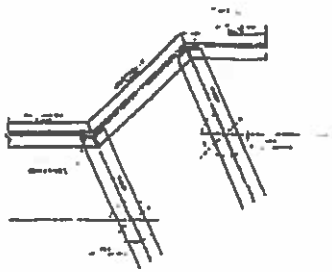


D End Condition



E Section Detail - Transition at Existing

F Typical Detail at Whaler Plate



G Typical Plan at Mitered Corners

Lighthouse Point
New Promenade
Baltimore, Maryland

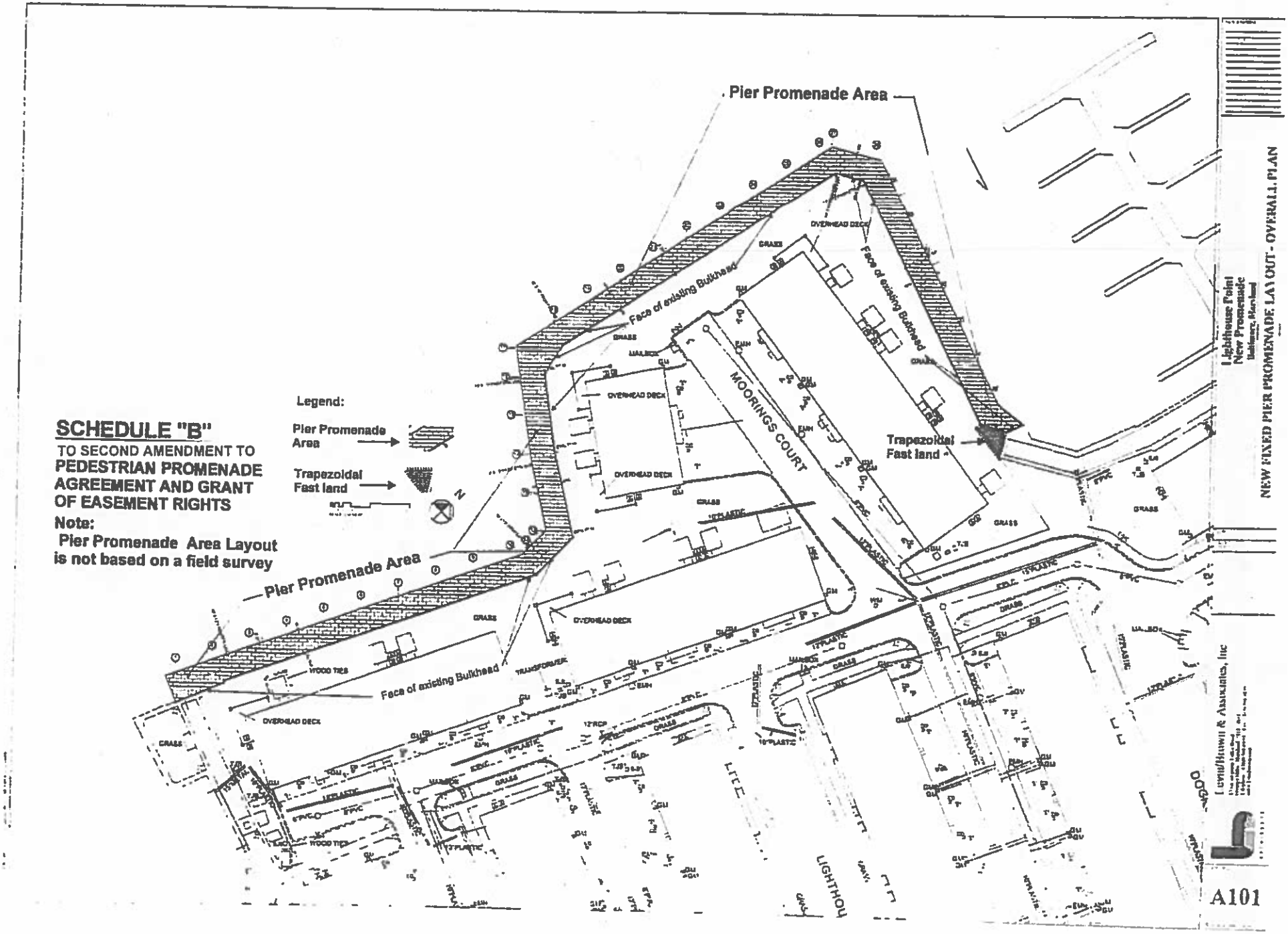
Structural Details

Lenfest Barron & Associates, Inc.

S104

SCHEDULE B

Drawing of Pier-Based Promenade Area


SCHEDULE "B"
TO SECOND AMENDMENT TO
PEDESTRIAN PROMENADE
AGREEMENT AND GRANT
OF EASEMENT RIGHTS
Note:
Pier Promenade Area Layout
is not based on a field survey
Legend:
Pier Promenade Area
Trapezoidal Fast land
N
Pier Promenade Area
Face of existing Bulkhead
Face of existing Bulkhead
Face of existing Bulkhead
Pier Promenade Area
Trapezoidal Fast land
MOORINGS COURT
LIGHTHOU
OVERHEAD DECK
GRASS
WOOD TIES
TRANSFORMER
Lighthouse Point
New Promenade
Baltimore, Maryland
NEW FIXED PIER PROMENADE LAYOUT - OVERALL PLAN
Lewis/Hewitt & Associates, Inc
A101

SCHEDULE C TO

SECOND AMENDMENT TO PEDESTRIAN PROMENADE EASEMENT AGREEMENT AND GRANT OF EASEMENT RIGHTS

BY AND BETWEEN

MOORINGS AT CANTON HOMEOWNERS ASSOCIATION, INC.

LIGHTHOUSE POINT REALTY, LLC,

SHIPYARD MARINA, LLC

SHIPYARD MARINA II, LLC

AND

THE MAYOR AND CITY COUNCIL OF BALTIMORE

PARTIES TO WHOM ALL NOTICES SHALL BE SENT

1. Selvin Passen, M.D.
   East Harbor Marine Center, L.L.C.
   Moorings at Canton, LLC
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2. Robert T. Shaffer, III
   Zuckerman Spaeder LLP
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   Baltimore, Maryland 21201

3. Kevin J. Pascale
   Pascale Stevens LLC
   2700 Lighthouse Point East
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   Baltimore MD 21224-4774

4. Thomas C. Stosur, Director
   Baltimore City Department of Planning
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   Baltimore, Maryland 21202

5. George Nilson
City Solicitor
Baltimore City Law Department
City Hall
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Baltimore, Maryland 21201

6. Moorings at Canton Homeowner's Association, Inc.
c/o Brian Krizek
Alliance Management Group
217 East Churchville Road
Bel Air, Maryland 21014

7. Richard Rubin
Neuberger Quinn Gielen Rubin & Gibber, P.A.
One South Street, 27th Floor
Baltimore, Maryland 21202

BALTIMORE CITY
2010 JAN 26 PM 1:46