

JOINT
PUBLIC NOTICE

CHARLESTON DISTRICT, CORPS OF ENGINEERS
69A Hagood Avenue
Charleston, South Carolina 29403-5107
and
THE S.C. DEPARTMENT OF HEALTH AND ENVIRONMENTAL CONTROL
Office of Environmental Quality Control
Water Quality Certification and Wetlands Programs Section
2600 Bull Street
Columbia, South Carolina 29201

REGULATORY DIVISION
Refer to: P/N #2004-1G-076-C

9 JULY 2004

Pursuant to Sections 401 and 404 of the Clean Water Act (33 U.S.C. 1344), and the South Carolina Coastal Zone Management Act (48-39-10 et seq.) an application has been submitted to the Department of the Army and the S.C. Department of Health and Environmental Control by

LEGEND OAKS COMMERCE SC, LLC
C/O TOBY RADENBAUGH
TRICO ENGINEERING CONSULTANTS, INC.
NORTH CHARLESTON, SOUTH CAROLINA 29403

for a permit to place fill material in wetlands adjacent to the

ASHLEY RIVER

at a location, on a 75 acre tract of land at the intersection of SC Highway 165 and SC Highway 61 (Cooke Crossroads), just south of Summerville, Dorchester County, South Carolina.
(Latitude 32.94625°- Longitude 80.20514°)

In order to give all interested parties an opportunity to express their views

NOTICE

is hereby given that written statements regarding the proposed work will be received by both of the above mentioned offices until

12 O'CLOCK NOON, MONDAY, AUGUST 9, 2004

from those interested in the activity and whose interests may be affected by the proposed work.

The proposed work consists of placing approximately 23,900 cubic yards of fill material in 4.68 acres of jurisdictional wetlands for access and development of the site. The applicant has stated that minimization measure such as minimum parking, preservation of grand trees, and the widening of existing causeways connecting to the island instead of creating new wetland crossings are also proposed. As mitigation for the proposed impacts, the applicant proposes to preserve the remaining 21.5 acres of onsite wetlands and 10.08 acres of 50- wide upland buffers, and purchase 13.5 restoration credits and 2.5 preservation credits from the Pigeon Pond Mitigation bank. The purpose of the proposed work is for commercial/office development of the site.

NOTE: Plans depicting the work described in this notice are available and will be provided, upon receipt of a written request, to anyone that is interested in obtaining a copy of the plans for the specific project. The request must identify the project of interest by public notice number and a self-addressed stamped envelope must also be provided for mailing the drawings to you. Your request for drawings should be addressed to the

**U.S. Army Corps of Engineers
ATTN: REGULATORY DIVISION
69A Hagood Avenue
Charleston, South Carolina 29403-5107.**

The District Engineer has concluded that the discharges associated with this project, both direct and indirect, should be reviewed by the South Carolina Department of Health and Environmental Control in accordance with provisions of Section 401 of the Clean Water Act. As such, this notice constitutes a request, on behalf of the applicant, for certification that this project will comply with applicable effluent limitations and water quality standards. The work shown on this application must also be certified as consistent with applicable provisions of the South Carolina Coastal Zone Management Act (15 CFR 930). The District Engineer will not process this application to a conclusion until such certifications are received. The applicant is hereby advised that supplemental information may be required by the State to facilitate the review. Persons wishing to comment or object to State certification must submit all comments in writing to the S.C. Department of Health and Environmental Control at the above address within thirty (30) days of the date of this notice.

This notice initiates the Essential Fish Habitat (EFH) consultation requirements of the Magnuson-Stevens Fishery Conservation and Management Act. Implementation of the proposed project would impact 4.68 acres of freshwater wetlands upstream of estuarine substrates and emergent wetlands utilized by various life stages of species comprising the red drum, shrimp, and snapper-grouper management complexes. Our initial determination is that the proposed action would not have a substantial individual or cumulative adverse impact on EFH or fisheries managed by the South Atlantic Fishery Management Council and the National Marine Fisheries Service (NMFS). Our final determination relative to project impacts and the need for mitigation measures is subject to review by and coordination with the NMFS.

The District Engineer has consulted the most recently available information and has determined that the project will have no effect on any Federally endangered, threatened, or proposed species and will not result in the destruction or adverse modification of designated or proposed critical habitat. This public notice serves as a request to the U.S. Fish and Wildlife Service and the National Marine Fisheries Service for any additional information they may have on whether any listed or proposed endangered or threatened species or designated or proposed critical habitat may be present in the area which would be affected by the activity, pursuant to Section 7(c) of the Endangered Species Act of 1973 (as amended).

The District Engineer has consulted the latest published version of the National Register of Historic Places for the presence or absence of registered properties, or properties listed as being eligible for inclusion therein, and this worksite is not included as a registered property or property listed as being eligible for inclusion in the Register. Consultation of the National Register constitutes the extent of cultural resource investigations by the District Engineer, and he is otherwise unaware of the presence of such resources. Presently unknown archaeological, scientific, prehistorical, or historical data may be lost or destroyed by the work to be accomplished under the requested permit.

Any person may request, in writing, within the comment period specified in this notice, that a public hearing be held to consider this application. Requests for a public hearing shall state, with particularity, the reasons for holding a public hearing.

9 JULY 2004

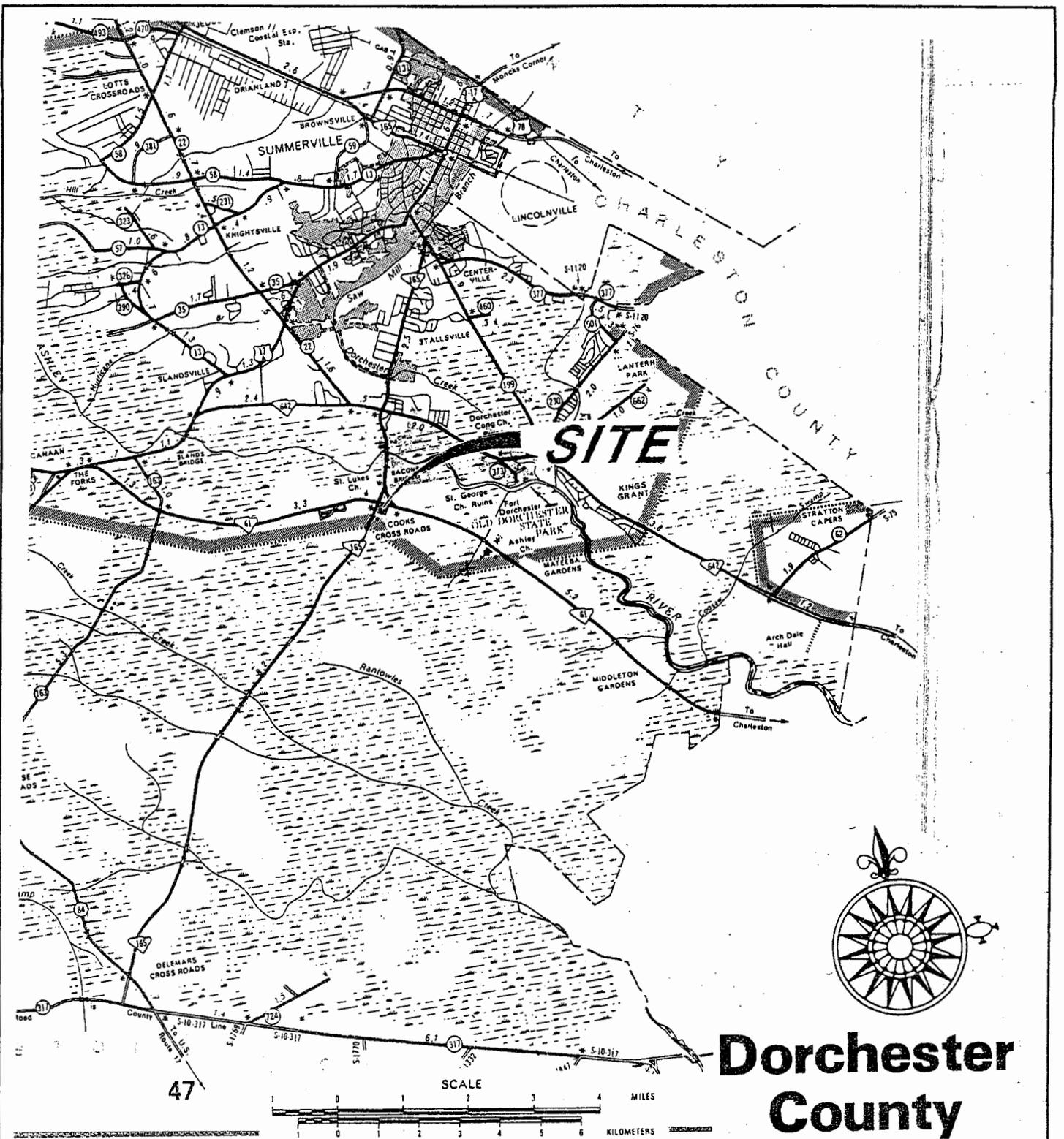
The decision whether to issue a permit will be based on an evaluation of the probable impact including cumulative impacts of the activity on the public interest and will include application of the guidelines promulgated by the Administrator, Environmental Protection Agency (EPA), under authority of Section 404(b) of the Clean Water Act and, as appropriate, the criteria established under authority of Section 102 of the Marine Protection, Research and Sanctuaries Act of 1972, as amended. That decision will reflect the national concern for both protection and utilization of important resources. The benefit which reasonably may be expected to accrue from the project must be balanced against its reasonably foreseeable detriments. All factors which may be relevant to the project will be considered including the cumulative effects thereof; among those 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 and, in general, the needs and welfare of the people. A permit will be granted unless the District Engineer determines that it would be contrary to the public interest. In cases of conflicting property rights, the Corps of Engineers cannot undertake to adjudicate rival claims.

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 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 project. 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 activity.

If there are any questions concerning this public notice, please contact me at 843-329-8044 or toll free at 1-866-329-8187.



Mary Hope Glenn
Project Manager
Regulatory Division
U.S. Army Corps of Engineers



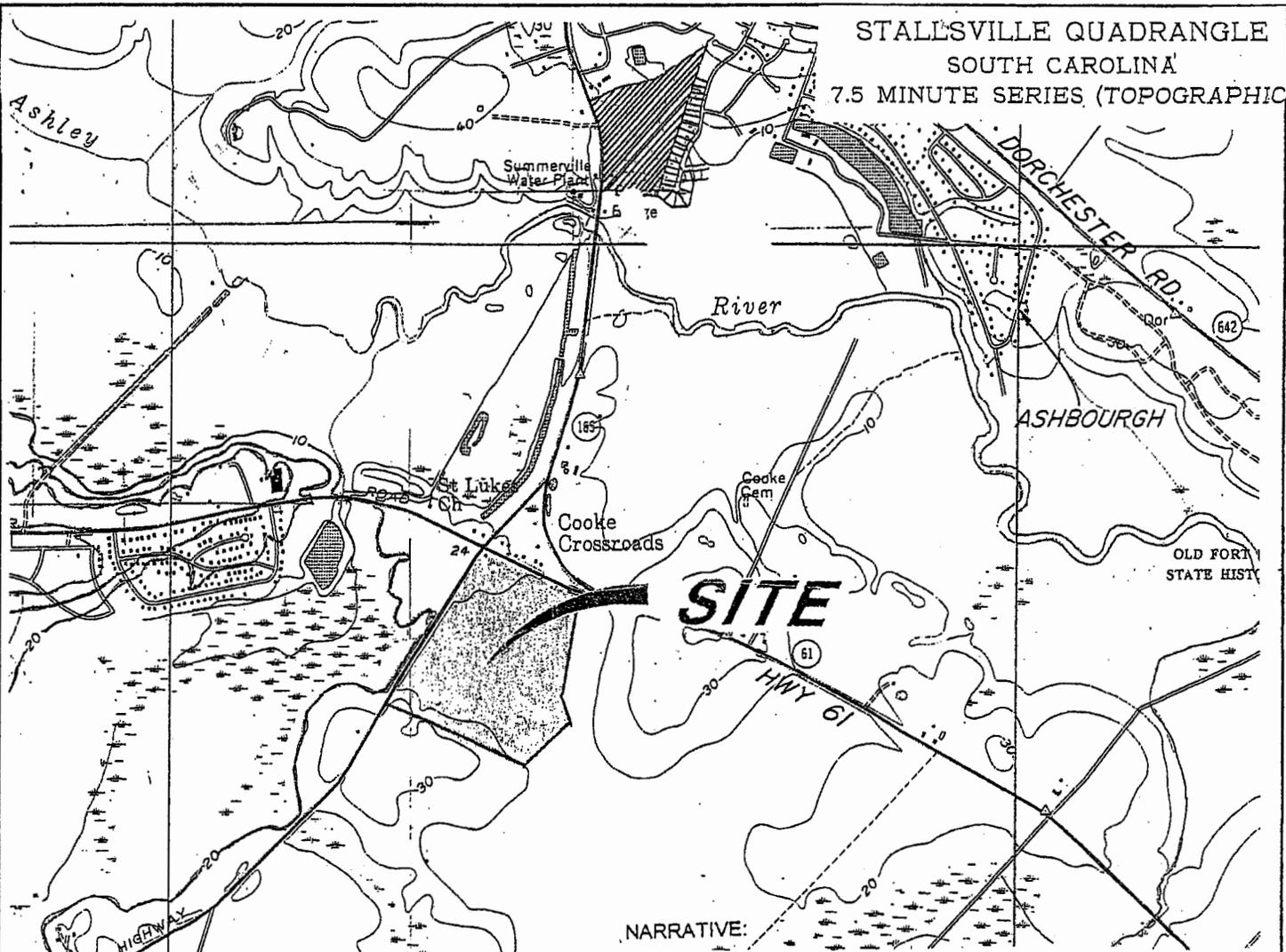
Dorchester County

| | |
|--|-----------------|
| Project Title: LEGEND OAKS COMMONS | |
| Project Location: DORCHESTER COUNTY, SC | |
| APPLICANT: LEGEND OAKS COMMERCE SC, LLC | |
| MARCH 8, 2004 | SCALE: AS SHOWN |
| REF: #2004-16-076 SHEET 1 OF 6 | |

| Revisions | |
|-----------|----------|
| Date | Initials |
| | |

47

STALLSVILLE QUADRANGLE
SOUTH CAROLINA
7.5 MINUTE SERIES (TOPOGRAPHIC)



NARRATIVE:

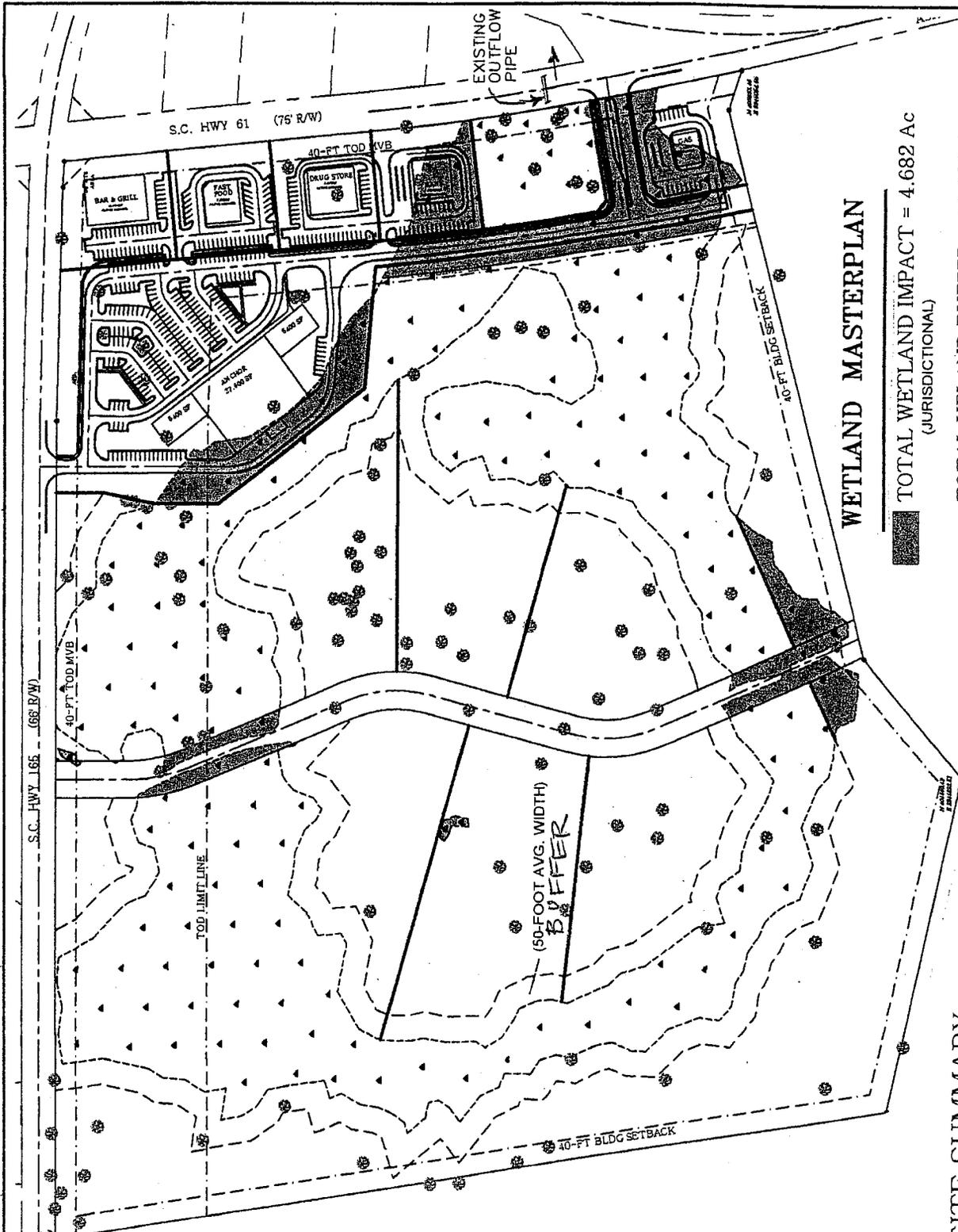
The applicant proposes a commercial/office development on an approximately 75 acre site in Dorchester County, SC just south of Summerville, SC.. Specifically the site is located at the intersection of SC Hwy 165 and SC Hwy 61, which is otherwise known as Cooke Crossroads. The site is mostly forested, and possesses a fairly high density of protected grand trees and approximately 26 acres of jurisdictional wetland. This wetland is contiguous, forested, freshwater wetland which is adjacent to the Ashley River. An approximately 20-acre, forested, upland island, which is proposed for the office portion of the development, exists in the central portion of the site.

The applicant proposes to fill 4.682 acres of jurisdictional wetland on site.. Please note that most likely the applicant will receive only one access point onto SC Hwy 61 from SCDOT at an existing interchange. Therefore, the significant wetland impact to allow for this necessary access and the resulting interior road in that portion of the site is practically unavoidable. Accommodations for additional access to the island and other circulation needs comprise the remaining wetland impact. Minimization measures such as a minimum parking scenario, the preservation of most of the grand trees, and the widening of existing causeways connecting to the island - instead of creating virgin wetland crossings - are also proposed.

To compensate for this wetland impact, 10,089 acres of contiguous upland buffer (50-foot average width) would be established adjacent to the remaining 21,525 acres of wetland area. In addition, the applicant would purchase 13.5 restoration credits and 2.5 preservation credits from an approved off-site mitigation bank. If this mitigation plan were approved, approximately 42% of the total acreage of this commercially valuable site would be preserved under restrictive covenant.

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| Project Title: LEGEND OAKS COMMONS | |
| Project Location: DORCHESTER COUNTY, SC | |
| APPLICANT: LEGEND OAKS COMMERCE SC, LLC | |
| MARCH 8, 2004 | SCALE: 1"= 2000' |
| REF: #2004-16-016 | SHEET 2 OF 6 |

| Revisions | |
|-----------|----------|
| Date | Initials |
| | |



WETLAND MASTERPLAN

- TOTAL WETLAND IMPACT = 4.682 Ac (JURISDICTIONAL)
- - - TOTAL UPLAND BUFFER = 10.089 Ac
- TOTAL PRESERVED/ ENHANCED WETLAND = 21.525 Ac
- GRAND TREE

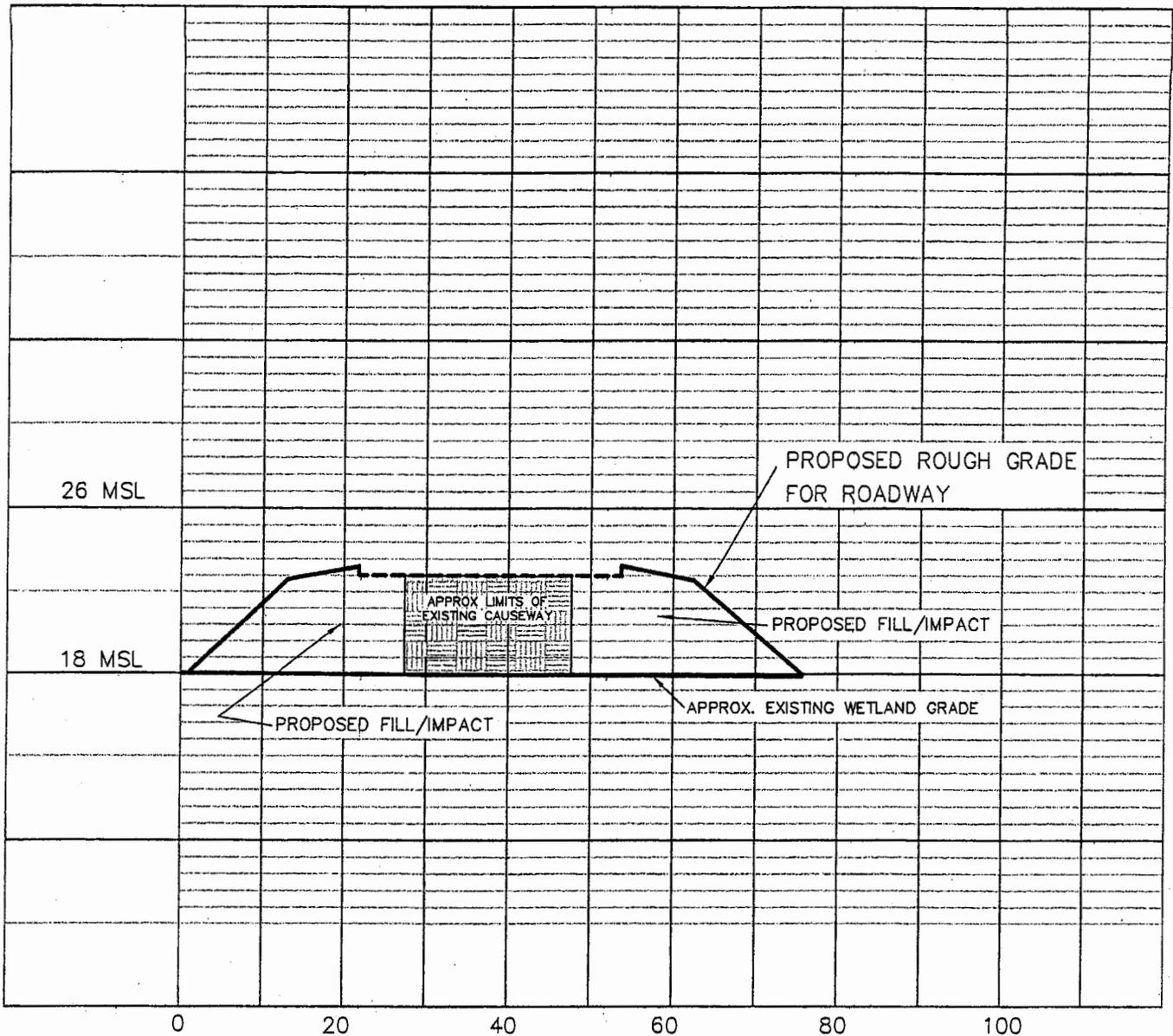
SITE SUMMARY

TOTAL SITE WETLAND = 26.207 Ac
 TOTAL SITE UPLAND = 49.388 Ac
 TOTAL SITE AREA = 75.5995 Ac



| Revisions | |
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| Date | Initials |
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|--|------------------|
| Project Title: LEGEND OAKS COMMONS | |
| Project Location: DORCHESTER COUNTY, SC | |
| APPLICANT: LEGEND OAKS COMMERCE SC, LLC | |
| MARCH 8, 2004 | SCALE: 1" = 300' |
| REF: #2004-1G-076 | SHEET 3 OF 6 |

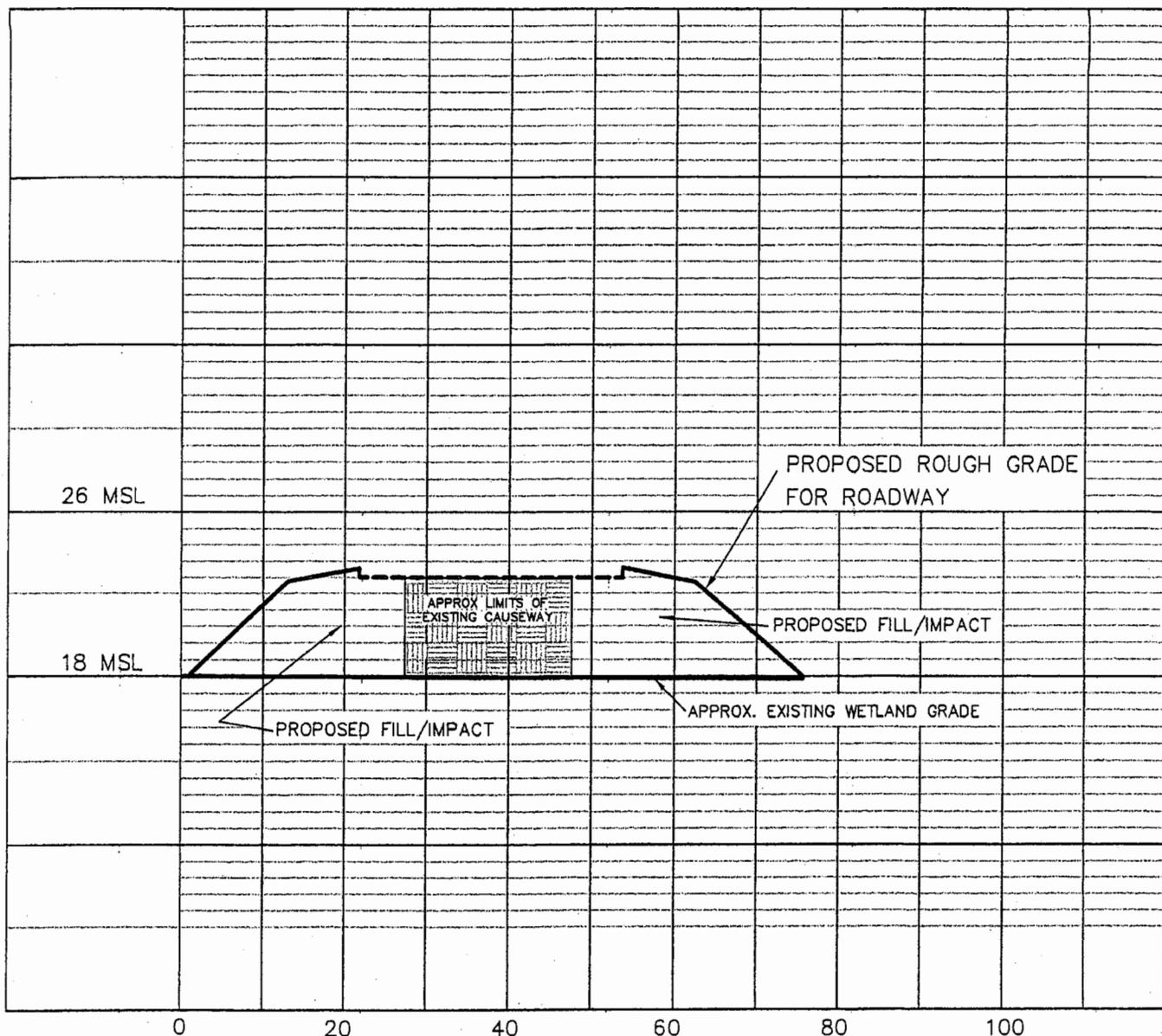


HORIZONTAL SCALE: 1" = 20'
 VERTICAL SCALE: 1" = 8'

PROPOSED WESTERN ROAD CROSSING – 75' R.O.W.
TOTAL EST. VOLUME OF WETLAND FILL: (0.37 ACRES/2400 CU.YD.)
 INSTALL 3 – 24" RCP'S @ CROSSING MIDPOINT AT EXISTING WETLAND GRADE

| Revisions | |
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| Date | Initials |
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| Project Title: LEGEND OAKS COMMONS | |
| Project Location: DORCHESTER COUNTY, SC | |
| APPLICANT: LEGEND OAKS COMMERCE SC, LLC | |
| MARCH 8, 2004 | SCALE: AS SHOWN |
| REF: #2004-1G-076 | SHEET 4 OF 6 |

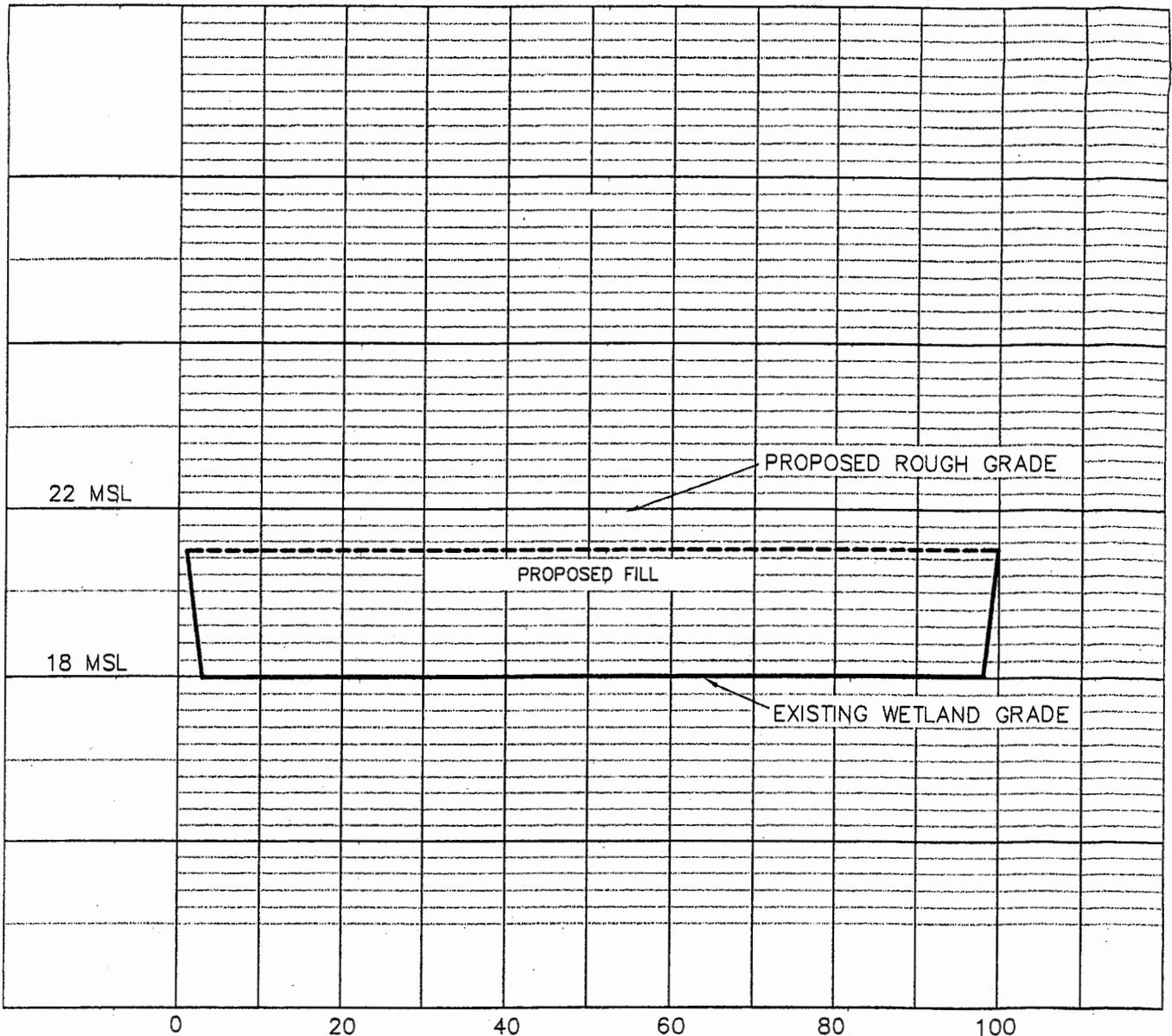


HORIZONTAL SCALE: 1" = 20'
 VERTICAL SCALE: 1" = 8'

PROPOSED EASTERN ROAD CROSSING – 75' R.O.W.
TOTAL EST. VOLUME OF WETLAND FILL: (0.35 ACRES/2300 CU.YD.)
 INSTALL 3 – 24" RCP'S @ CROSSING MIDPOINT AT EXISTING WETLAND GRADE

| Revisions | |
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| Date | Initials |
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|--|-----------------|
| Project Title: LEGEND OAKS COMMONS | |
| Project Location: DORCHESTER COUNTY, SC | |
| APPLICANT: LEGEND OAKS COMMERCE SC, LLC | |
| MARCH 8, 2004 | SCALE: AS SHOWN |
| REF: #2004-19-076 | SHEET 5 OF 6 |



HORIZONTAL SCALE: 1" = 20'
 VERTICAL SCALE: 1" = 4'

GENERAL WETLAND FILL SECTION

TOTAL ESTIMATED VOLUME OF WETLAND FILL: (3.96 ACRES/19,200 CU.YD.)

NOTE: RCP'S WILL BE INSTALLED TO MAINTAIN ON SITE WETLAND'S SHEET FLOW TO EXISTING OUTFLOW PIPE

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| Date | Initials |
| | |

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| Project Title: LEGEND OAKS COMMONS | |
| Project Location: DORCHESTER COUNTY, SC | |
| APPLICANT: LEGEND OAKS COMMERCE SC, LLC | |
| MARCH 8, 2004 | SCALE: AS SHOWN |
| REF: #2004-1G-076 | SHEET 6 OF 6 |

CALCSE
LEGEND
OAKS
COMMONS

Mitigation for Wetlands

14. Tables and Worksheets.

14.1. Adverse Impacts Table.

ADVERSE IMPACT FACTORS FOR WETLANDS AND OTHER WATERS OF THE U.S. EXCLUDING STREAMS

| FACTORS | OPTIONS | | | | | |
|--------------------|-------------------------|-----------------|------------------|--------------------------|-------------------------|----------------|
| | Lost Type | Type C 0.2 | | Type B 2.0 | | Type A 3.0 |
| Priority Category | Tertiary 0.5 | | Secondary 1.5 | | Primary 2.0 | |
| Existing Condition | Very Impaired 0.1 | Impaired 1.0 | | Slightly Impaired 2.0 | Fully Functional 2.5 | |
| Duration | Seasonal 0.1 | 0 to 1 0.2 | 1 to 3 0.5 | 3 to 5 1.0 | 5 to 10 1.5 | Over 10 2.0 |
| Dominant Impact | Shade 0.2 | Clear 1.0 | Dredge 1.5 | Drain 2.0 | Impound 2.5 | Fill 3.0 |
| Cumulative Impact | $0.05 \times \sum AA_i$ | | | | | |

Note: For the Cumulative Impact factor, $\sum AA_i$ stands for the sum of the acres of adverse impacts to aquatic areas for the overall project. When computing this factor, round to the nearest tenth decimal place using even number rounding. Thus 0.01 and 0.050 are rounded down to give a value of zero while 0.051 and 0.09 are rounded up to give 0.1 as the value for the cumulative impact factor. The cumulative impact factor for the overall project must be used in each area column on the Required Mitigation Credits Worksheet below.

Required Mitigation Credits Sample Worksheet

| Factor | Area 1 | Area 2 | Area 3 | Area 4 | Area 5 | Area 6 |
|--------------------|----------------|----------|----------|----------|----------|----------|
| Lost Type | 3.0 | | | | | |
| Priority Category | .5 | | | | | |
| Existing Condition | 2.5 | | | | | |
| Duration | 2.0 | | | | | |
| Dominant Impact | 3.0 | | | | | |
| Cumulative Impact | .2 | | | | | |
| Sum of r Factors | $R_1 = 11.2$ | $R_2 =$ | $R_3 =$ | $R_4 =$ | $R_5 =$ | $R_6 =$ |
| Impacted Area | $AA_1 = 4.682$ | $AA_2 =$ | $AA_3 =$ | $AA_4 =$ | $AA_5 =$ | $AA_6 =$ |
| $R \times AA =$ | 52.44 | | | | | |

Total Required Credits = $\sum (R \times AA) =$ 52.44

Mitigation for Wetlands

14.3. *Restoration and Enhancement Table.*

RESTORATION AND ENHANCEMENT MITIGATION FACTORS FOR WETLANDS AND OTHER WATERS OF THE U.S. EXCLUDING STREAMS

| Factors | Options | | | | |
|-----------------|--|-------------------------|---------------------|------------------------------|---------------------------------------|
| Net Improvement | Minimal Enhancement 0.1 -----to----- Excellent Restoration 4.0 | | | | |
| Control | N. A. 0 | Covenant Private 0.1 | Covenant POA 0.2 | Conservation Easement 0.4 | Transfer Fee Title Conservancy 0.6 |
| Temporal Lag | N.A.* 0 | Over 20 - 0.3 | 10 to 20 - 0.2 | 5 to 10 - 0.1 | 0 to 5 0 |
| Credit Schedule | Schedule 5* 0 | Schedule 4 0.1 | Schedule 3 0.2 | Schedule 2 0.3 | Schedule 1 0.4 |
| Kind | Category 5 - 0.1 | Category 4 0 | Category 3 0.2 | Category 2 0.3 | Category 1 0.4 |
| Location | Zone 5 - 0.1 | Zone 4 0 | Zone 3 0.2 | Zone 2 0.3 | Zone 1 0.4 |

N. A. = Not Applicable

*Use this option to calculate credits for enhancement by buffering

Proposed Restoration or Enhancement Mitigation Sample Worksheet

| Factor | Area 1 | Area 2 | Area 3 | Area 4 | Area 5 |
|------------------|-------------------------|------------------|------------------|------------------|------------------|
| Net Improvement | 1.0 | | | | |
| Control | .1 | | | | |
| Temporal Lag | 0 | | | | |
| Credit Schedule | .4 | | | | |
| Kind | .4 | | | | |
| Location | .4 | | | | |
| Sum of m Factors | M ₁ = 2.3 | M ₂ = | M ₃ = | M ₄ = | M ₅ = |
| Mitigation Area | A ₁ = 10.089 | A ₂ = | A ₃ = | A ₄ = | A ₅ = |
| M × A = | 23.20 | | | | |

Total Restoration/Enhancement Credits = $\sum (M \times A) =$

23.20

Mitigation for Wetlands

14.4. *Preservation Table.*

**PRESERVATION MITIGATION FACTORS FOR WETLANDS AND OTHER WATERS OF THE U.S.
EXCLUDING STREAMS**

| Factors | Options | | | | |
|--------------------|--------------------------|------------------------|---------------------------------|--|-------------------|
| Priority Category | Tertiary 0.1 | Secondary 0.2 | | Primary 0.4 | |
| Existing Condition | Impaired -0.1 | Slightly Impaired 0 | | Fully Functional 0.1 | |
| Degree of Threat | Low -0.1 | Moderate 0.1 | | High 0.2 | |
| Control | Covenant Private 0 | Covenant POA 0.1 | Conservation Easement 0.4 | Transfer Fee Title Conservancy 0.6 | |
| Kind | Category 5 -0.1 | Category 4 0 | Category 3 0.1 | Category 2 0.2 | Category 1 0.3 |
| Location | Zone 5 -0.1 | Zone 4 0 | Zone 3 0.1 | Zone 2 0.2 | Zone 1 0.3 |

Note: Preservation credit should generally be limited to those areas that qualify as Fully Functional or Slightly Impaired. Impaired sites should be candidates for enhancement or restoration credit, not preservation credit. In special circumstances when Impaired sites are allowed preservation credit (e.g. within the scope of some OCRM wetland master planned projects), a negative factor will be used to calculate credits as per the matrix table.

Proposed Preservation Mitigation Sample Worksheet

| Factor | Area 1 | Area 2 | Area 3 | Area 4 | Area 5 |
|--------------------|-------------------------|------------------|------------------|------------------|------------------|
| Priority Category | .4 | | | | |
| Existing Condition | .1 | | | | |
| Degree of Threat | .1 | | | | |
| Control | 0 | | | | |
| Kind | .3 | | | | |
| Location | .3 | | | | |
| Sum of m Factors | M ₁ = 1.2 | M ₂ = | M ₃ = | M ₄ = | M ₅ = |
| Mitigation Area | A ₁ = 11.436 | A ₂ = | A ₃ = | A ₄ = | A ₅ = |
| M × A = | 13.72 | | | | |

Total Preservation Credits = $\sum (M \times A) =$ 13.72

#2004-1G-076

Mitigation for Wetlands

14.6. Mitigation Summary Worksheet.

WETLANDS AND OTHER WATERS OF THE U.S. EXCLUDING STREAMS Mitigation Summary Worksheet For Permit Application # _____

I. Required Mitigation

| | |
|--|-------|
| A. Total Required Mitigation Credits = | 52.44 |
|--|-------|

II. Non-Banking Mitigation Credit Summary

| | Credits | Acres |
|--|---------|--------|
| B. Creation | | |
| C. Restoration and/or Enhancement (Non-Buffer Enhancement) | | |
| D. Restoration and/or Enhancement (Buffer Enhancement) | 23.20 | 10.089 |
| E. Total No Net Loss Non-Bank Mitigation = B + C + D | 23.20 | 10.089 |
| F. Preservation | 13.72 | 11.436 |
| G. Total Proposed Non-Bank Mitigation = E + F | 36.92 | 21.525 |

III. Banking Mitigation Credit Summary

| | Credits | Acres |
|--|---------|-------|
| H. Creation | | |
| I. Restoration and/or Enhancement (Non-Buffer Enhancement) | 13.5 | N/A |
| J. Restoration and/or Enhancement (Buffer Enhancement) | | |
| K. Total No Net Loss Bank Mitigation = H + I + J | 13.5 | " |
| L. Preservation | 2.5 | " |
| M. Total Proposed Bank Mitigation = K + L | 16.0 | " |

IV. Grand Totals

| | Credits | Acres |
|--|---------|-------|
| N. Total Preservation Mitigation = F + L | 16.22 | " |
| O. Total Non-Preservation Mitigation = E + K | 36.70 | " |
| P. Total Creation = B + H | | |
| Q. Total Restoration and/or Enhancement (Non-Buffer Enhancement) = C + I | 13.5 | " |
| R. Total Proposed Mitigation = G + M | 52.92 | " |

#2004-1G-076

Mitigation for Wetlands

The Total Mitigation Credits (Row R) should be equal to or greater than the total Required Mitigation Credits (Row A) for the proposed mitigation to be acceptable. The other requirements given in the SOP must also be satisfied, e.g., in the credits column, Row O must equal at least 50% of Row A and the addition of Row P and Row Q must equal at least 25% of Row A. If the answer to any of the questions below is no, then the proposed mix and/or quantity of mitigation is not in compliance with the policy and the plan should be revised or rejected, unless a variance is approved.

| | Yes | No |
|--|-----|----|
| $PMC \geq RMC$ or in words Are the credits in Row R greater than or equal to Row A ? | ✓ | |
| $PMC_{\text{Non-Preservation}} \geq \frac{1}{2} RMC$ or in words Are the credits in Row O greater than or equal to 50% of Row A ? | ✓ | |
| $PMC_{\text{Creation + Restoration/Enhancement (Non-Buffer Enhancement)}} \geq \frac{1}{4} RMC$ or in words Are the credits in Row P plus the credits in Row Q greater than or equal to 25% of Row A ? | ✓ | |