

**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

30 July 2004

Refer to: P/N # 2004-1N-217-C

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

**PAVILION LAND COMPANY**  
**5605 CARNEGIE BOULEVARD, SUITE 110**  
**CHARLOTTE, NORTH CAROLINA 28209**

for a permit to place fill material in jurisdictional wetlands adjacent to an

**UNNAMED TRIBUTARY OF ASHLEY RIVER**

at a location near the intersection of Ashley River Road and William Kennerty Drive in Charleston County, South Carolina (Latitude – 32.81335 N, Longitude – 80.02961 W).

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 30 AUGUST 2004**

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

The proposed work consists of constructing a mixed-use commercial development on a 16.6-acre tract of land. The applicant plans to place fill material in 0.15 acres of jurisdictional wetlands or other waters of the United States to construct a secondary access road that connects directly to Ashley River Road. In addition, the applicant plans to fill 1.17-acres of wetlands to construct two commercial buildings and associated parking areas as shown on Sheet 4 of 9.

Additional project impacts consist of filling 0.02 acres of waters of the United States to construct a secondary access road to provide traffic flow within the proposed development, 0.05 acres of wetlands to construct a parking lot, and 0.14 acres for wetlands to construct a commercial building. A total of four commercial buildings will be constructed on the project site.

The applicant has proposed a compensatory mitigation plan that consists of the preservation of 3.62 acres of jurisdictional wetlands and other waters of the United States and 1.96 acres of upland buffers. In addition, the applicant plans to purchase 8.9 non-buffer enhancement credits from the Pigeon Pond Mitigation Bank. The purpose of the proposed impacts to waters of the United States is to provide secondary access to developable uplands and to convert wetlands and other waters of the United States into uplands to construct a commercial development.

**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 the Coastal Zone Management Program (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 1.53 acres of waters of the United States 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

30 July 2004

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.

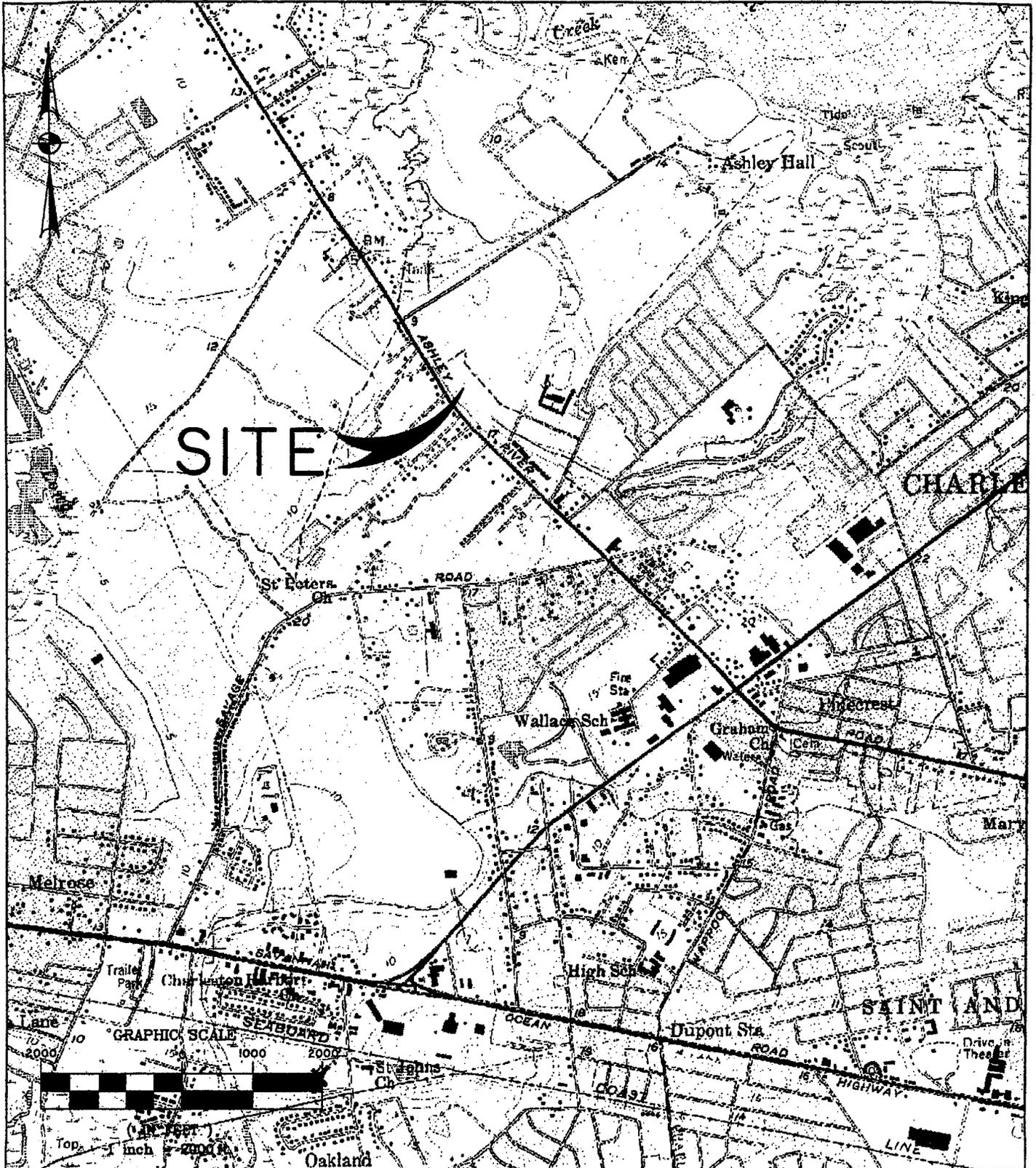
Any person may request, in writing, within the comment period specified in this notice, that a public hearing be held to consider this application. Requests for a public hearing shall state, with particularity, the reasons for holding a public hearing. The decision whether to issue a permit will be based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



Nathaniel I. Ball  
Project Manager  
Regulatory Division  
U.S. Army Corps of Engineers



**QUADRANGLE MAP**

LATITUDE: 32°48' 48"  
 LONGITUDE: 80°01' 46"

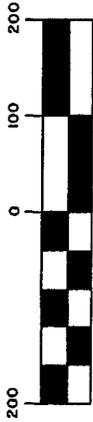
SOURCE: JOHNS ISLAND QUADRANGLE MAP  
 DATE: 5-21-04

SHEET 1 OF 9

PROPOSED ACTIVITY:  
 WETLAND FILL

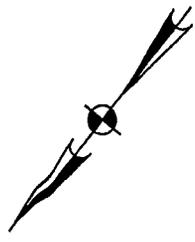
COUNTY: CHARLESTON  
 APPLICANT:  
 PAVILION DEVELOPMENT  
 COMPANY

GRAPHIC SCALE



( IN FEET )

1 inch = 200 ft.



WILLIAM KENNERTY DRIVE  
60' R/W

ASHLEY RIVER ROAD  
66' R/W  
S.C. Highway 61

TRACTS A & B  
ASHLEY HALL PLANTATION  
TMS# 353-00-00-012  
MOSS CREEK INVESTMENT COMPANY LLC  
Plat Book X, Pg. 171

78 ASHLEY HALL PLANT RD  
ASHLEY OAKS APTS  
TMS# 353-00-00-010  
THE HOUSING AUTHORITY OF  
THE CITY OF CHARLESTON THE  
Plat Book EA, Pg. 226

78 ASHLEY HALL PLANT RD  
ASHLEY OAKS APTS  
TMS# 353-00-00-010  
THE HOUSING AUTHORITY OF  
THE CITY OF CHARLESTON THE  
Plat Book EA, Pg. 226

TMS# 353-00-00-001  
ROSINA KENNERTY SEIGNIOUS ETAL  
Plat Book Z, Pg. 39  
11.45± Ac. Wetlands  
5.15 Ac. Wetlands

Wetland B  
22,511 sq. ft.  
0.52 acres

Wetland A  
5,897 sq. ft.  
0.14 acres

Ditch  
21,659 sq. ft.  
0.50 acres

Wetland D  
1,981 sq. ft.  
0.05 acres

Wetland E  
50,775 sq. ft.  
1.17 acres

Wetland F  
120,710 sq. ft.  
2.77 acres

Existing 35' Drainage Easement

Existing 35' Drainage Easement

WETLAND INVENTORY MAP

PROPOSED ACTIVITY:  
WETLAND FILL

COUNTY: CHARLESTON  
APPLICANT:  
PAVILION DEVELOPMENT  
COMPANY

DATE: 5-21-04  
REVISED: 7-7-04

SHEET 2 OF 9

**WETLAND IMPACT SUMMARY**

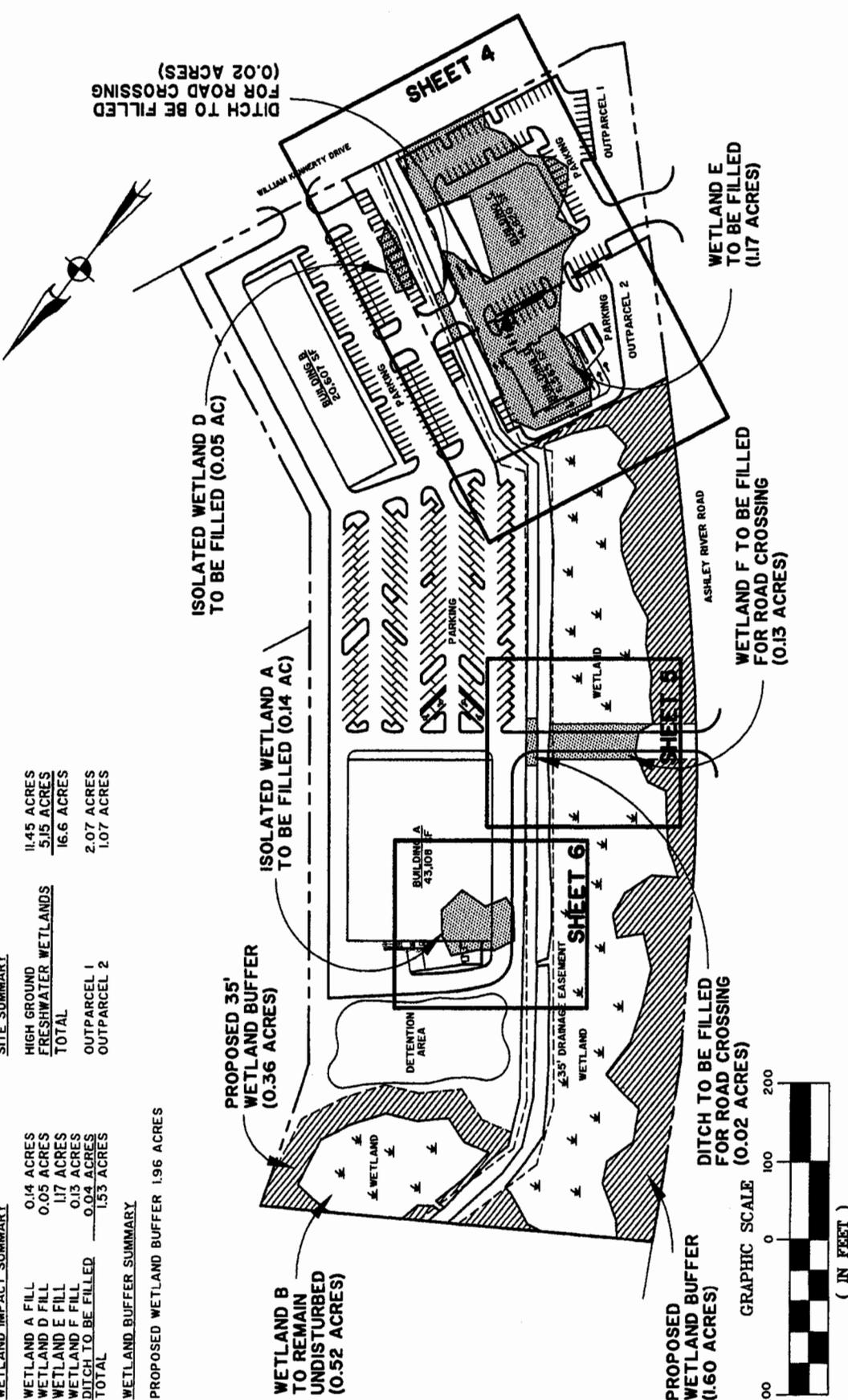
WETLAND A FILL 0.14 ACRES  
 WETLAND D FILL 0.05 ACRES  
 WETLAND E FILL 1.17 ACRES  
 WETLAND F FILL 0.13 ACRES  
 DITCH TO BE FILLED 0.04 ACRES  
 TOTAL 1.53 ACRES

**WETLAND BUFFER SUMMARY**

PROPOSED WETLAND BUFFER 1.96 ACRES

**SITE SUMMARY**

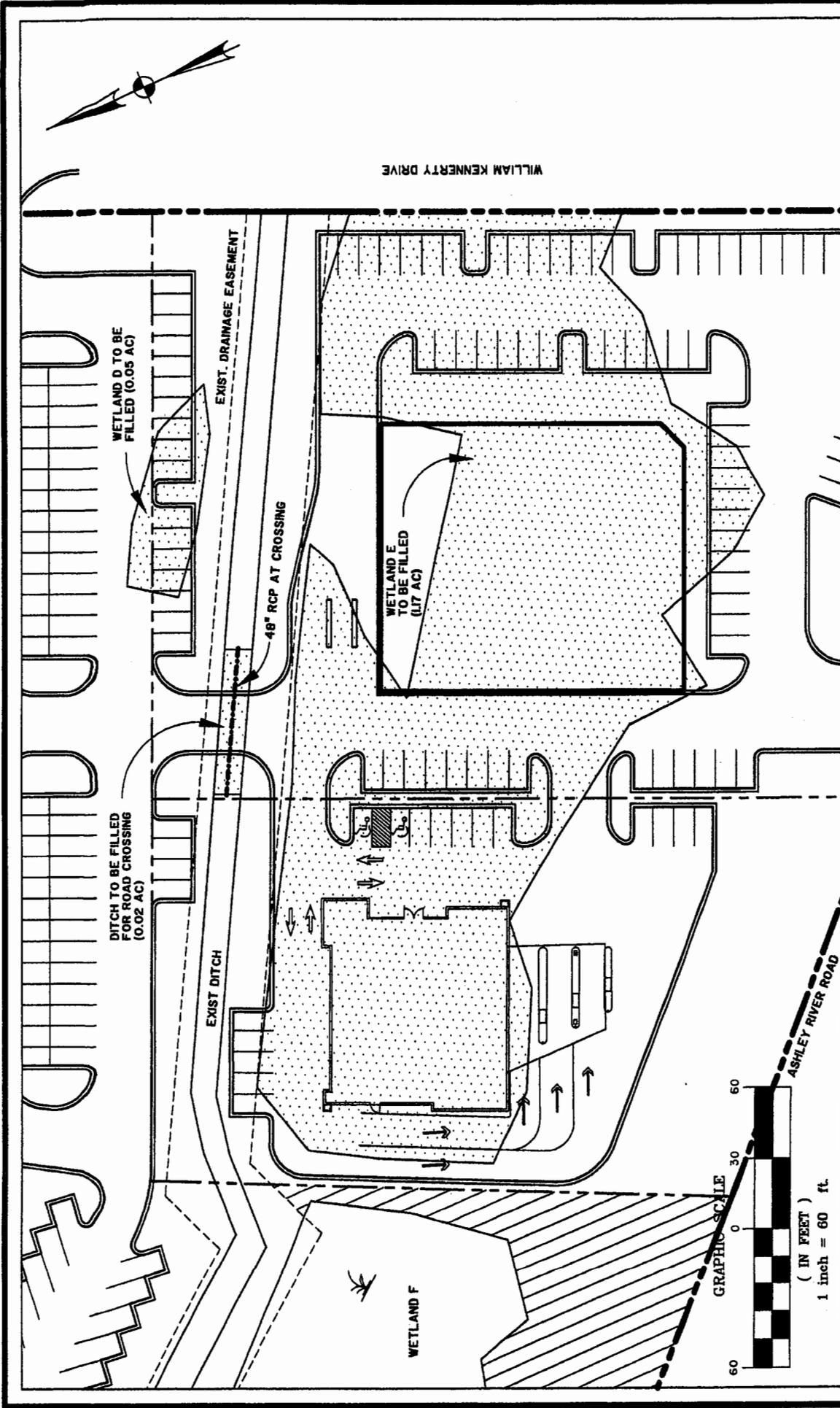
HIGH GROUND 11.45 ACRES  
 FRESHWATER WETLANDS 5.15 ACRES  
 TOTAL 16.6 ACRES  
 OUTPARCEL 1 2.07 ACRES  
 OUTPARCEL 2 1.07 ACRES



**OVERALL SITE MAP**

DATE: 5-21-04  
 REVISED: 7-7-04

PROPOSED ACTIVITY:  
 WETLAND FILL  
 COUNTY: CHARLESTON  
 APPLICANT:  
 PAVILION DEVELOPMENT  
 COMPANY



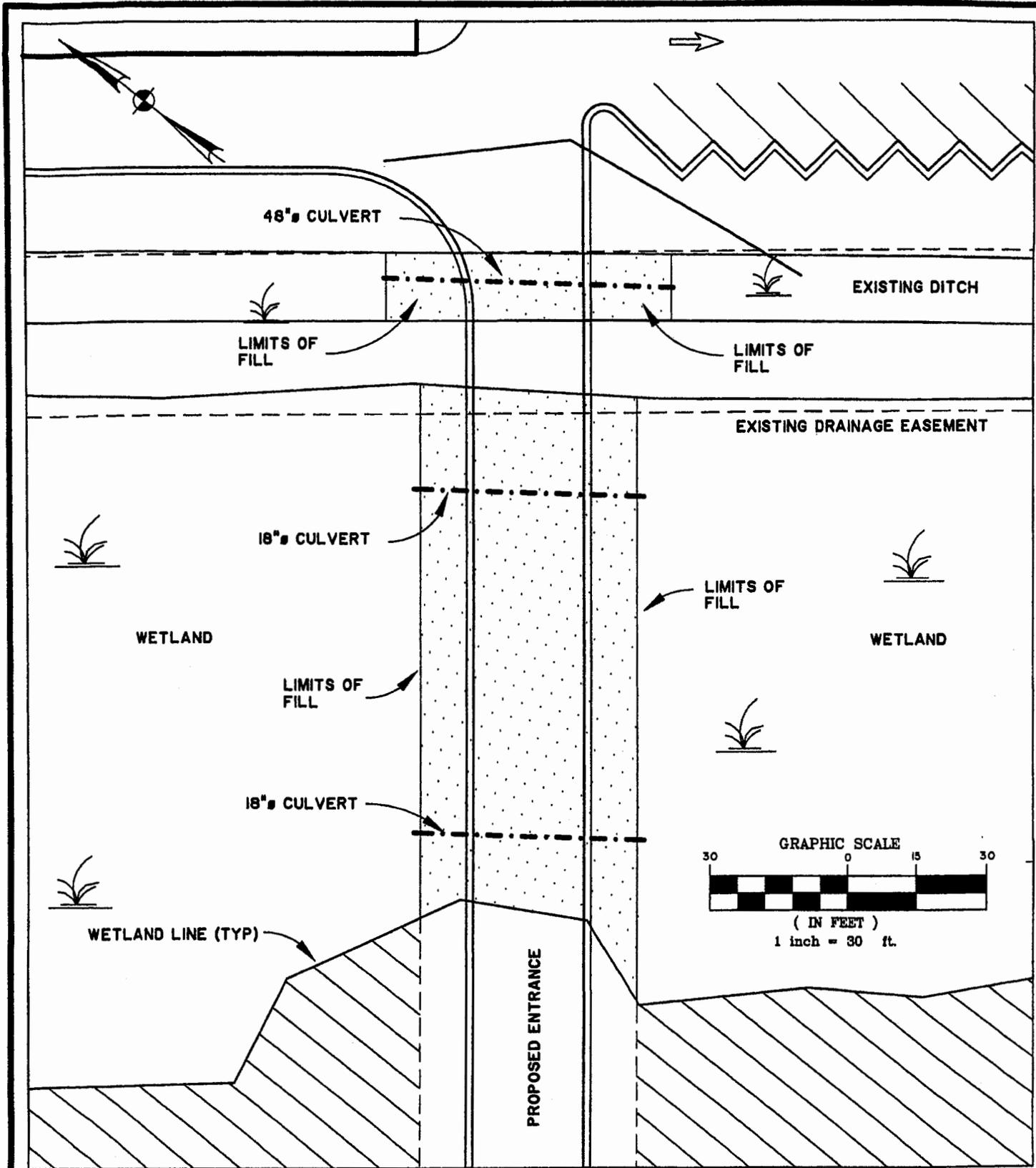
**PROPOSED ACTIVITY:**  
**WETLAND FILL**

**COUNTY:** CHARLESTON  
**APPLICANT:** PAVILION DEVELOPMENT COMPANY

**SITE PLAN**

**DATE:** 5-21-04  
**REVISED:** 7-7-04

**SHEET 4 OF 9**



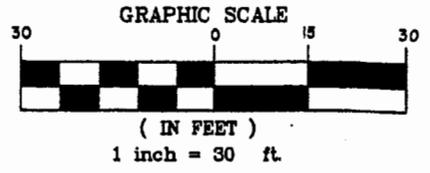
# SITE PLAN

DATE: 5-21-04

SHEET 5 OF 9

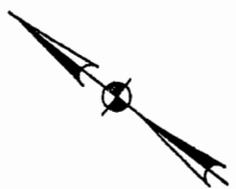
PROPOSED ACTIVITY:  
WETLAND FILL

COUNTY: CHARLESTON  
APPLICANT:  
PAVILION DEVELOPMENT  
COMPANY



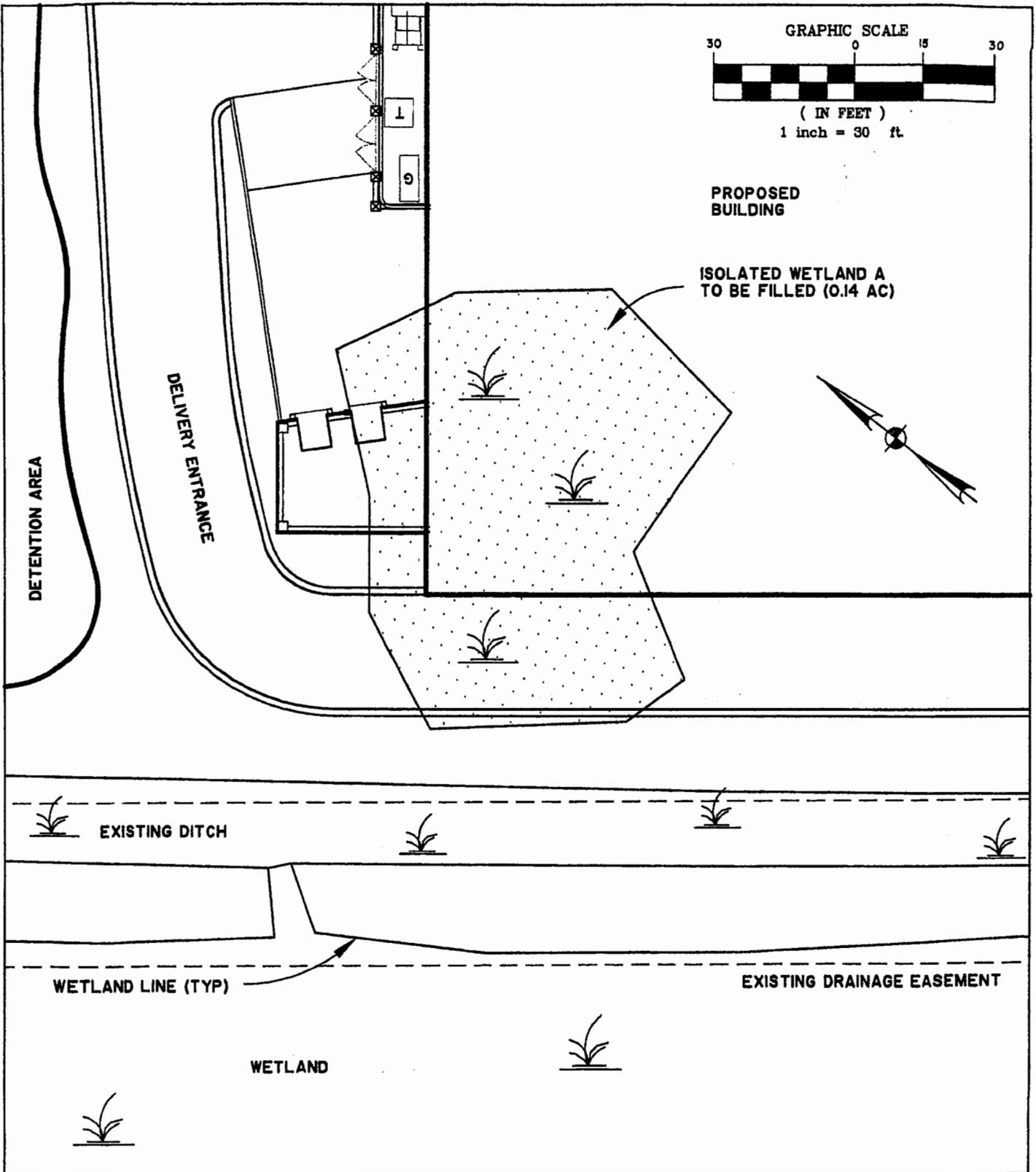
PROPOSED BUILDING

ISOLATED WETLAND A TO BE FILLED (0.14 AC)



DETENTION AREA

DELIVERY ENTRANCE



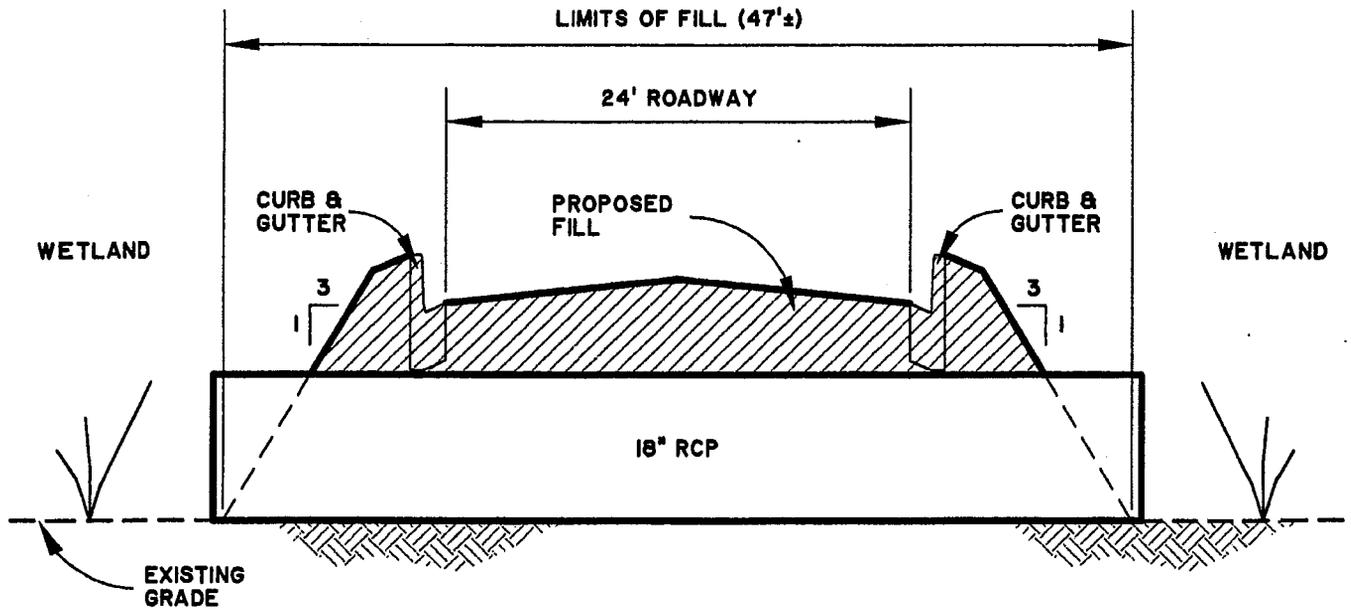
**SITE PLAN**

DATE: 5-21-04

SHEET 6 OF 9

PROPOSED ACTIVITY:  
 WETLAND FILL

COUNTY: CHARLESTON  
 APPLICANT:  
 PAVILION DEVELOPMENT  
 COMPANY



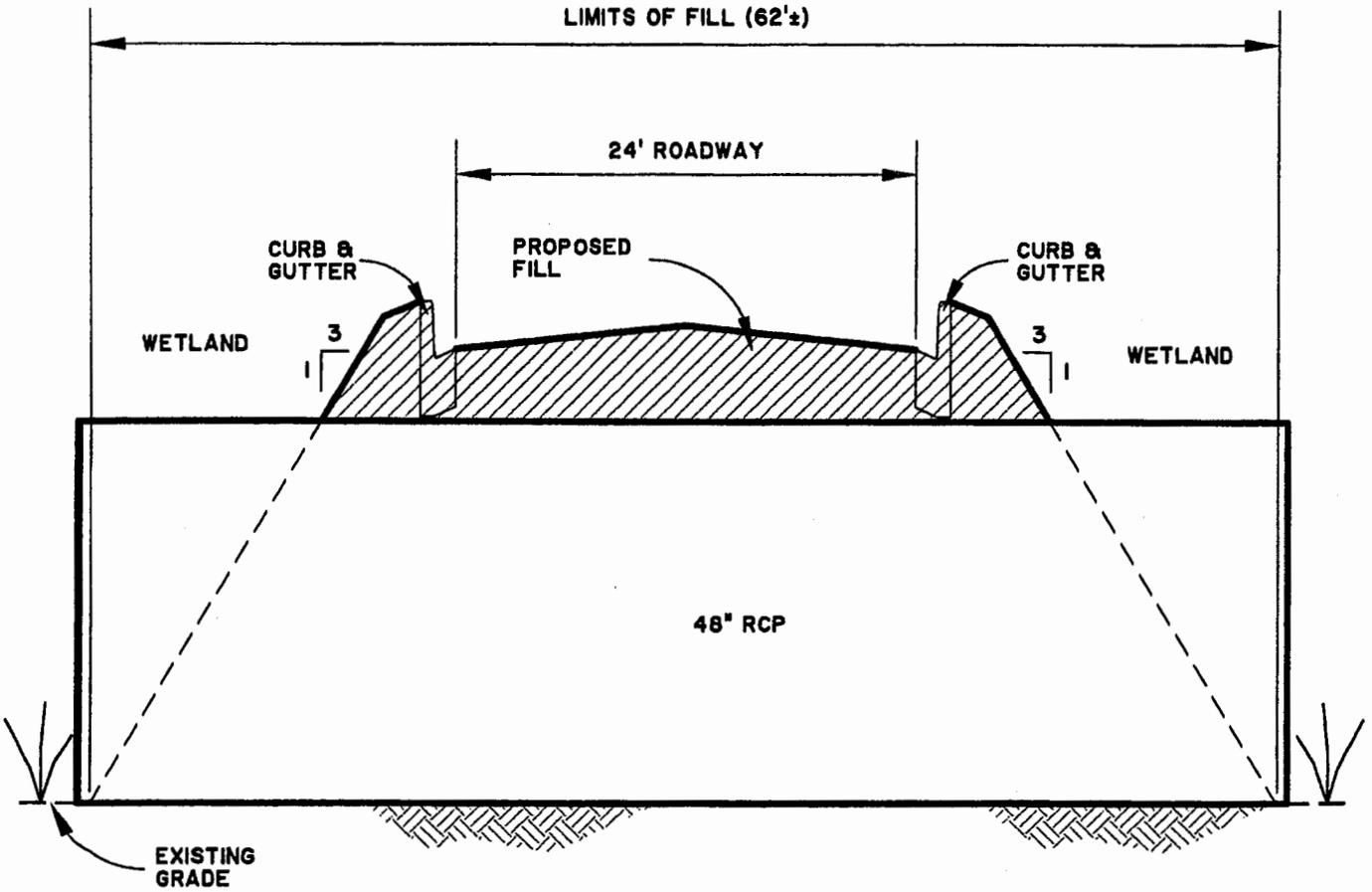
**TYPICAL FILL SECTION AT 18" RCP**

**DATE: 5-20-04**

**SHEET 7 OF 9**

**PROPOSED ACTIVITY:  
WETLAND FILL**

**COUNTY: CHARLESTON  
APPLICANT:  
PAVILION DEVELOPMENT  
COMPANY**



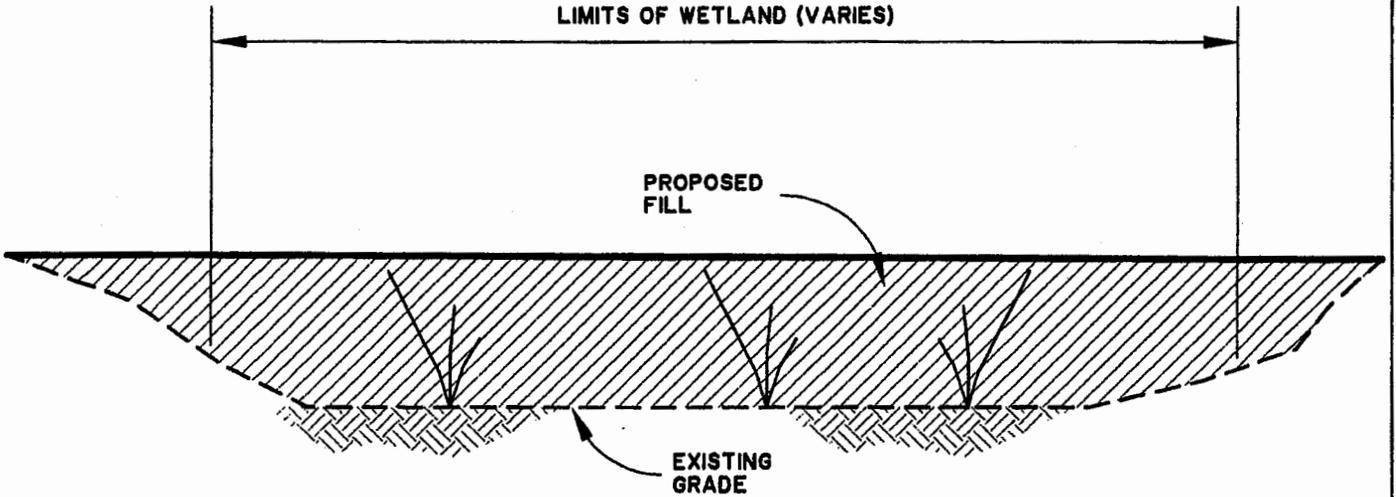
**TYPICAL FILL SECTION AT 48" RCP**

**PROPOSED ACTIVITY:  
WETLAND FILL**

**COUNTY: CHARLESTON  
APPLICANT:  
PAVILION DEVELOPMENT  
COMPANY**

**DATE: 5-20-04**

**SHEET 8 OF 9**



**TYPICAL FILL FOR PARKING & BUILDINGS**

**PROPOSED ACTIVITY:  
WETLAND FILL**

**COUNTY: CHARLESTON  
APPLICANT:  
PAVILION DEVELOPMENT  
COMPANY**

**DATE: 5-20-04**

**SHEET 9 OF 9**

**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 x $\Sigma AA_1$					

**Note:** For the **Cumulative Impact** factor,  $\Sigma AA_1$  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	0.5					
Existing Condition	1.0					
Duration	2.0					
Dominant Impact	3.0					
Cumulative Impact	0.07					
Sum of r Factors	$R_1 = 9.57$	$R_2 =$	$R_3 =$	$R_4 =$	$R_5 =$	$R_6 =$
Impacted Area	$AA_1 = 1.53$	$AA_2 =$	$AA_3 =$	$AA_4 =$	$AA_5 =$	$AA_6 =$
R x AA=	14.64					

**Total Required Credits =  $\Sigma (R \times AA) =$  14.6**

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

Factors	Options				
	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	0.1				
Control	0.1				
Temporal Lag	0				
Credit Schedule	0.4				
Kind	0.4				
Location	0.4				
Sum of m Factors	M <sub>1</sub> = 1.4	M <sub>2</sub> =	M <sub>3</sub> =	M <sub>4</sub> =	M <sub>5</sub> =
Mitigation Area	A <sub>1</sub> = 1.96	A <sub>2</sub> =	A <sub>3</sub> =	A <sub>4</sub> =	A <sub>5</sub> =
M x A =	2.74				

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

**2.7**

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

Factors	Options				
	Priority Category	Territory 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

**None:** 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	0.1				
Existing Condition	0				
Degree of Threat	0.2				
Control	0				
Kind	0.3				
Location	0.3				
Sum of m Factors	M <sub>1</sub> = 0.9	M <sub>2</sub> =	M <sub>3</sub> =	M <sub>4</sub> =	M <sub>5</sub> =
Mitigation Area	A <sub>1</sub> = 1.66	A <sub>2</sub> =	A <sub>3</sub> =	A <sub>4</sub> =	A <sub>5</sub> =
M x A =	1.5				

**Total Preservation Credits =  $\sum (M \times A) =$  1.5**

## WETLANDS AND OTHER WATERS OF THE U.S. EXCLUDING STREAMS

Mitigation Summary Worksheet For Permit Application # \_\_\_\_\_

### I. Required Mitigation

A. Total Required Mitigation Credits = 14.6
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### 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)	2.7	2.0
E. Total No Net Loss Non-Bank Mitigation = B + C + D	2.7	2.0
F. Preservation	1.5	1.7
G. Total Proposed Non-Bank Mitigation = E + F	4.2	3.7

### III. Banking Mitigation Credit Summary

	Credits	Acres
H. Creation		
I. Restoration and/or Enhancement (non-Buffer Enhancement)	10.4	(Bank)
J. Restoration and/or Enhancement (Buffer Enhancement)		
K. Total No Net Loss Non-Bank Mitigation = H + I + J	10.4	(Bank)
L. Preservation		
M. Total Proposed Non-Bank Mitigation = K + L	10.4	(Bank)

### IV. Grand Totals

	Credits	Acres
N. Total Preservation Mitigation = F + L	1.5	1.7
O. Total Non-Preservation Mitigation = E + K	13.1	(Bank)
P. Total Creation = B + H	0	
Q. Total Restoration and/or Enhancement (Non-Buffer Enhancement) = C + I	10.4	(Bank)
R. Total Proposed Mitigation = G + M	14.6	3.7 + Bank Acres