

JOINT
PUBLIC NOTICE

CHARLESTON DISTRICT, CORPS OF ENGINEERS
69 A Hagood Avenue
Charleston, South Carolina 29403-5107
and
THE S.C. DEPARTMENT OF HEALTH AND ENVIRONMENTAL CONTROL
Office of Ocean and Coastal Resource Management
1362 McMillan Avenue, Suite 400
North Charleston, South Carolina 29405

REGULATORY DIVISION Refer
to: P/N SAC-2021-01162

February 7, 2024

Pursuant to Section 10 of the Rivers and Harbors Act of 1899 (33 U.S.C. 403), 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

Mr. Steve Hirsch
Seabrook Island Property Owner Association
1202 Landfall Way
Johns Island, South Carolina 29455

Mr. Josh Hoke
Terracon Consultants
1800 Reynolds Avenue
North Charleston, South Carolina 29405
Josh.Hoke@terracon.com

for a permit to install two muted tide gates for drainage improvements in

Captain Sam's Creek

located adjacent to the Ocean Winds Golf Course golf cart bridge approximately 0.14 miles to the southwest of the intersection of Seabrook Island Road and High Hammock Road on Seabrook Island, Charleston County, South Carolina (Latitude: 32.5698 °, Longitude: -80.1658 °), Rockville Quad.

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

N O T I C E

is hereby given that written statements regarding the proposed work will be received by

the **Corps** until

15 Days from the Date of this Notice,

and **SCDHEC** will receive written statements regarding the proposed work until

30 Days from the Date of this Notice

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

NOTE: This public notice and associated plans are available on the Corps' website at: <http://www.sac.usace.army.mil/Missions/Regulatory/PublicNotices> .

Applicant's Stated Purpose

According to the applicant, the purpose of the proposed project would be to reduce flooding on Seabrook Island associated with King tides and large stormwater events within the Ocean Winds Gold Course area along Captain Sam's Creek.

Project Description

The proposed work would consist of constructing new stormwater drainage infrastructure and two muted tide gates for drainage improvements and flood control. In detail, the applicant proposes permanent impacts to 0.09- acres of wetland as well as temporary impacts to 0.05 acre of wetlands associated with the construction of new infrastructure and the upstream drainage impacts from the operation of the muted tide gates. The proposed system would consist of two "muted" tide gates consisting of two 48-inch RCPs, concrete slab and wingwalls, self-regulating tidal flap gates, and a maintenance access road. Temporary cofferdams would be installed during construction on the north and south sides of the proposed tide gates and a pump would be used to drain the dammed areas so that construction may take place in the dry. The proposed project may result in draining impacts to the Critical Area wetlands upstream of the muted tide gates. An analysis of the upstream impacts was conducted by overlaying the certified Critical Area line which represents the tidally influenced wetlands upstream to the proposed closed tide gate elevation of 3.5 feet NAVD88 (6.526 MLW). Critical Area wetlands that are located at a higher elevation above the proposed closed muted tide gate elevation may no longer receive tidal influence to the same extent after the tide gate is installed. Therefore, these areas are considered a draining impact.

The proposed impacts are as follows:

Impact 1: The proposed muted tidal gates, concrete slab and wingwalls, and self-regulating tidal flap gates on the upstream side of Captain Sams Creek will result in 0.003 acre (115.4 sf) of permanent fill impacts within Critical Area wetlands.

Impact 2: The proposed articulated concrete matting in portions of the impact area and new maintenance road to access the tidal gates would result in 0.021 acre (919.28 sf) of permanent fill impacts within Critical Area wetlands.

Impact 3: The proposed muted tidal gates, concrete slab and wingwalls, self-regulating tidal flap gates on the downstream side of Captain Sams Creek will result in 0.006 acre (262.92 sf) of permanent fill impacts within Critical Area wetlands.

Impact 4: Critical Area wetlands that are located at a higher elevation above the proposed closed muted tide gate elevation may no longer receive tidal influence to the same extent after the proposed tide gates are installed. The Critical Area wetlands that may no longer receive tidal influence due to the proposed closing elevation of the muted tide gate is approximately 0.06 acre (2552 sf).

Avoidance and Minimization

The applicant has stated that the proposed project would avoid and/or minimize impacts to the aquatic environments by reducing impacts to only include the most practicable measures to alleviate flooding and to avoid and minimize impacts to Waters of the U.S. Not all impacts to aquatic resources could be avoided and the total impacts are 0.14 acre, of which 0.05 acre would be temporary impacts lasting less than 180 days.

Proposed Compensatory Mitigation

The applicant is not proposing to mitigate for impacts to wetlands and/or waters of the United States stating that in accordance with Nationwide Permit General Condition 23(c), no mitigation is proposed for the 0.09 acre of permanent impacts to wetland as it is not greater than one tenth of an acre.

South Carolina Department of Health and Environmental Control

The District Engineer has concluded that the discharges associated with this project, both direct and indirect, should be reviewed by the certifying authority, South Carolina Department of Health and Environmental Control, in accordance with provisions of Section 401 of the Clean Water Act (CWA). The CWA Section 401 Certification Rule (Certification Rule, 40 CFR 121), effective September 11, 2020, requires certification, or waiver, for any license or permit that authorizes an activity that may result in a discharge. The scope of a CWA Section 401 Certification is limited to assuring that a discharge from a Federally licensed or permitted activity will comply with water quality requirements. The applicant is responsible for requesting certification and providing required information to the certifying authority. In accordance with Certification Rule part 121.12, the Corps will notify the U.S. Environmental Protection Agency Administrator when it has received a Department of the Army (DA) permit application and the related certification. The Administrator is responsible for determining if the discharge may affect water quality in a neighboring jurisdiction. The DA permit may not be issued pending the conclusion of the

Administrator's determination of effects on neighboring jurisdictions.

The work shown on this application must also be certified as consistent with applicable provisions of the Coastal Zone Management Program (15 CFR 930). This activity may also require evaluation for compliance with the S. C. Construction in Navigable Waters Permit Program. State review, permitting and certification is conducted by the S. C. Department of Health and Environmental Control. 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.

Essential Fish Habitat

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 0.06 acres from tidal draining impacts as well as 0.025 acre from permanent fill impacts to vegetation of estuarine substrates and emergent wetlands utilized by various life stages of species comprising the shrimp, and snapper-grouper management complexes. The District Engineer's 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). The District Engineer's final determination relative to project impacts and the need for mitigation measures is subject to review by and coordination with the NMFS.

Endangered Species

Pursuant to the Section 7 of the Endangered Species Act of 1973 (as amended), the Corps has reviewed the project and based on the location of the project and available information, the following species may be present in the County where the work will occur: American Chaffseed (*Schwalbea americana*), Canby's Dropwort (*Oxypolis canbyi*), Eastern Black Rail (*Laterallus jamaicensis ssp.*), Green Sea Turtle (*Chelonia mydas*), Kemp's Ridley Sea Turtle (*Lepidochelys kempii*), Leatherback Sea Turtle (*Dermochelys coriacea*), Loggerhead Sea Turtle (*Caretta caretta*), Piping Plover (*Charadrius melodus*), Pondberry (*Lindera melissifolia*), Red-cockaded Woodpecker (*Picoides borealis*), Rufa Red Knot (*Calidris canutus rufa*), West Indian Manatee (*Trichechus manatus*), and Northern Long-eared Bat (*Myotis septentrionalis*).

Based on all information provided by the applicant and the most recently available information, the District Engineer has determined the following:

The project will have no effect on American Chaffseed (*Schwalbea americana*), Canby's Dropwort (*Oxypolis canbyi*), Eastern Black Rail (*Laterallus jamaicensis ssp.*), Green Sea Turtle (*Chelonia mydas*), Kemp's Ridley Sea Turtle (*Lepidochelys kempii*), Leatherback Sea Turtle (*Dermochelys coriacea*), Loggerhead Sea Turtle (*Caretta caretta*), Pondberry (*Lindera melissifolia*), Red-cockaded Woodpecker (*Picoides borealis*), West

Indian Manatee (*Trichechus manatus*) and Northern Long-eared Bat (*Myotis septentrionalis*) and will not result in the destruction or adverse modification of designated or proposed critical habitat.

The project is not likely to adversely affect Piping Plover (*Charadrius melodus*), and Red Knot (*Calidris canutus rufa*) northern long-eared bat or 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.

Cultural Resources

Pursuant to Section 106 of the National Historic Preservation Act (NHPA), this public notice also constitutes a request to Indian Tribes to notify the District Engineer of any historic properties of religious and cultural significance to them that may be affected by the proposed undertaking.

In accordance with Section 106 of the NHPA, the District Engineer has consulted South Carolina ArchSite (GIS), for the presence or absence of historic properties (as defined in 36 C.F.R. 800.16)(1)(1)), and has initially determined that no historic properties are present; therefore, there will be no effect on historic properties. To ensure that other historic properties that the District Engineer is not aware of are not overlooked, this public notice also serves as a request to the State Historic Preservation Office and any other interested parties to provide any information they may have with regard to historic properties. This public notice serves as a request for concurrence within 30 days from the SHPO (and/or Tribal Historic Preservation Officer).

The District Engineer's final eligibility and effect determination will be based upon coordination with the SHPO and/or THPO, as appropriate and required and with full consideration given to the proposed undertaking's potential direct and indirect effects on historic properties within the Corps-identified permit area.

Corps' Evaluation

The decision whether to issue a permit will be based on an evaluation of the probable impact including cumulative impacts of the proposed 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. 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 cannot undertake to adjudicate rival claims.

Solicitation of Public Comment

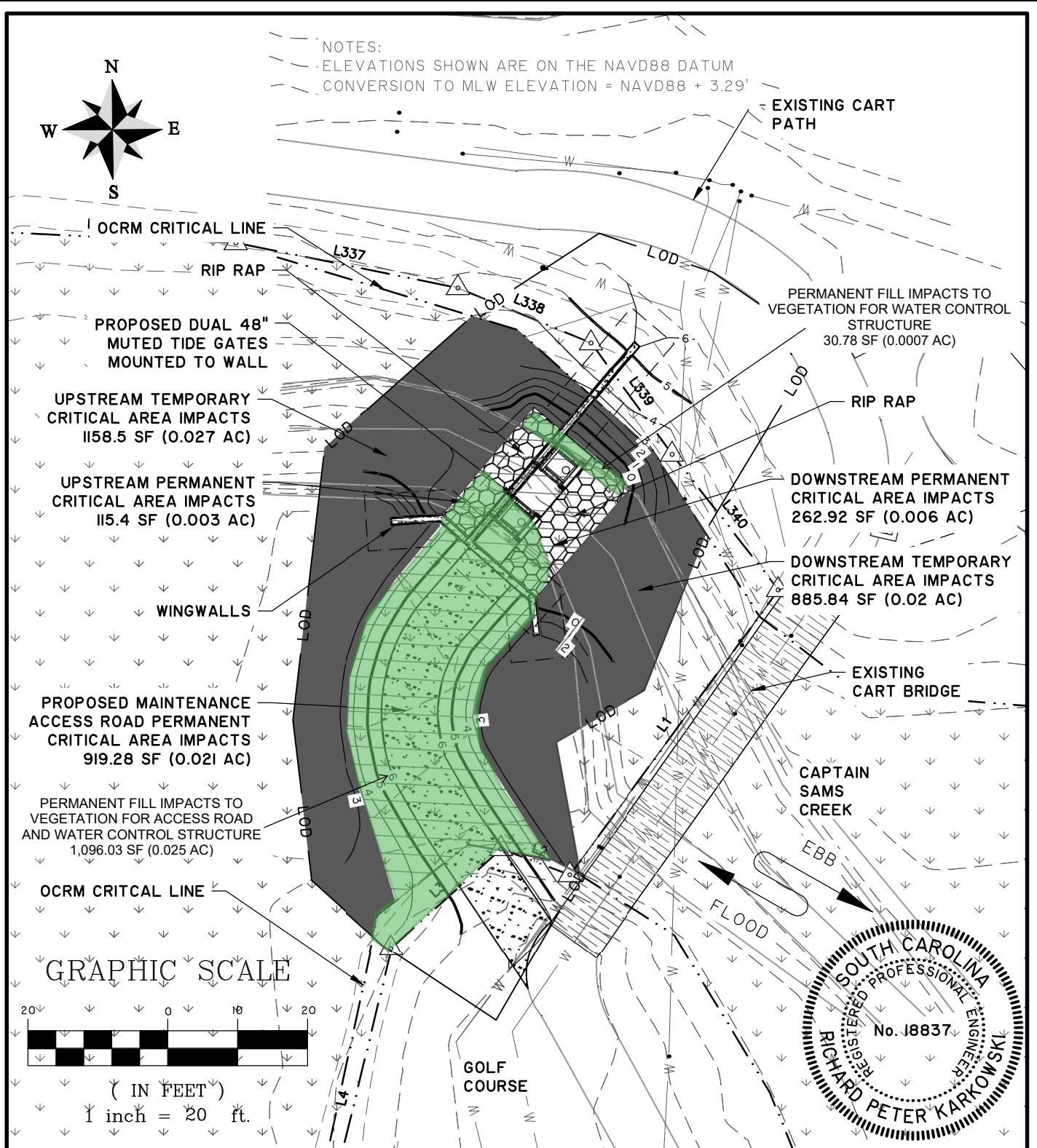
The Corps is soliciting comments from the public; Federal, state, and local agencies and officials; Indian Tribes; and other interested parties in order to consider and evaluate the impacts of this activity. Any comments received will be considered by the Corps to determine whether to issue, modify, 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. 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.

Please submit comments in writing, identifying the project of interest by public notice/file number (SAC-2022-01224), to Eileen.K.Foss@usace.army.mil or the following address:

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

If there are any questions concerning this public notice, please contact Eileen Foss, Project Manager, at 843-329-8037, toll free at 1-866-329-8187, or by email at Eileen.K.Foss@usace.army.mil.

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OCEAN WINDS #15 TIDAL GATE

SITE PLAN

CLIENT:

SEABROOK ISLAND POA

LOCATION: SEABROOK ISLAND, SC

DATE: 10/03/23

JOB NUMBER: J-27897.0001

DRAWN BY: WTH

REVIEWED BY: RPK

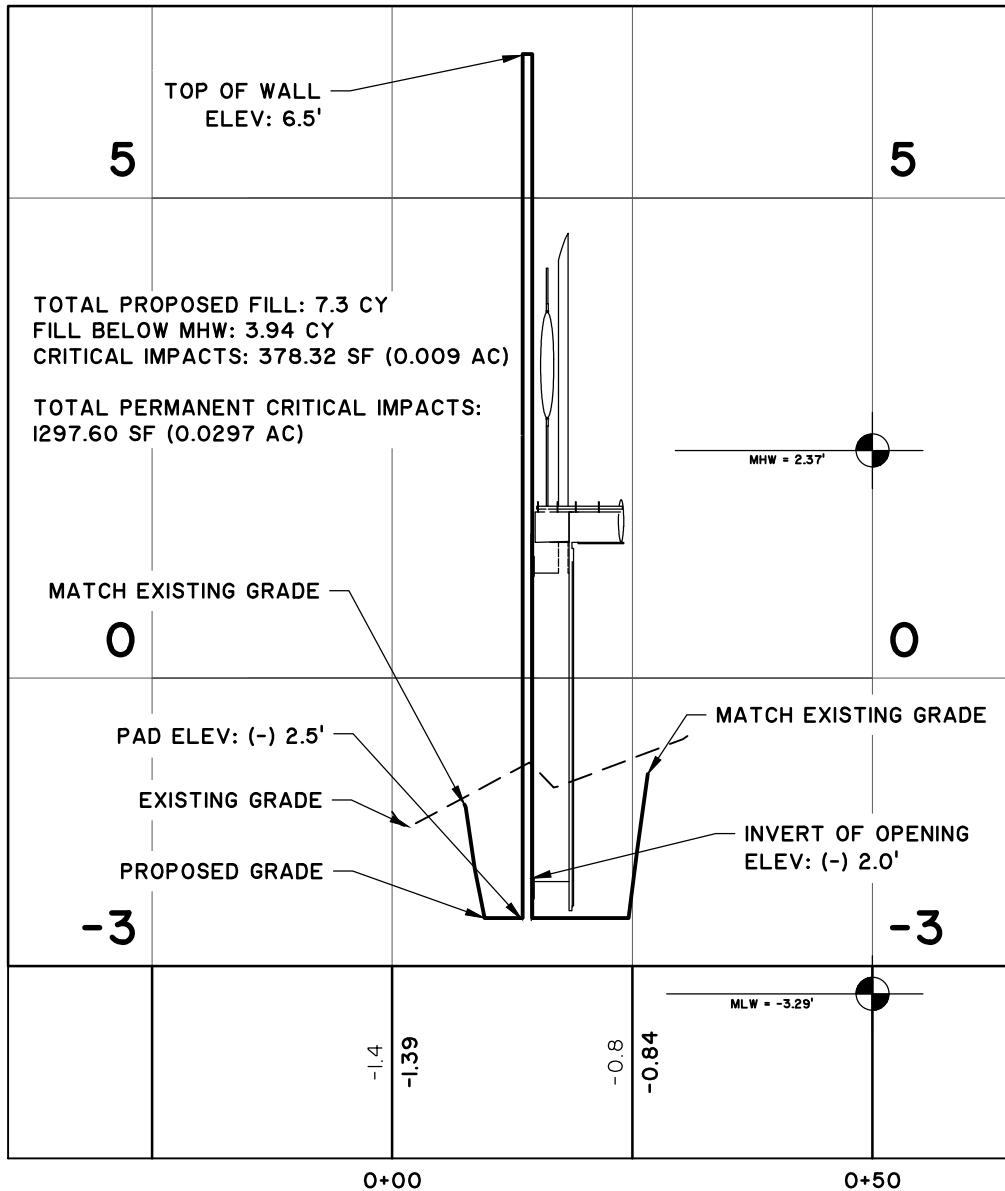
SHEET: 2 OF 7

SCALE: 1" = 20'



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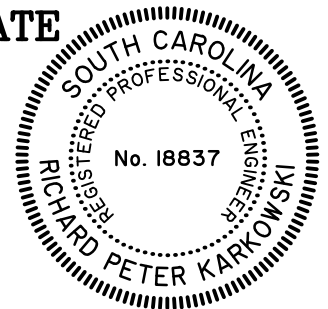


SEABROOK - OCEAN WINDS TIDAL GATE

STATIONS: -0+25 - 0+50

SCALE: HORZ.: 1" = 20'

VERT.: 1" = 2'



OCEAN WINDS #15 TIDAL GATE

PROFILE VIEW

CLIENT:

SEABROOK ISLAND POA

LOCATION: #####

DATE: 10/03/23

JOB NUMBER: J-27897.0001

DRAWN BY: WTH

REVIEWED BY: RPK

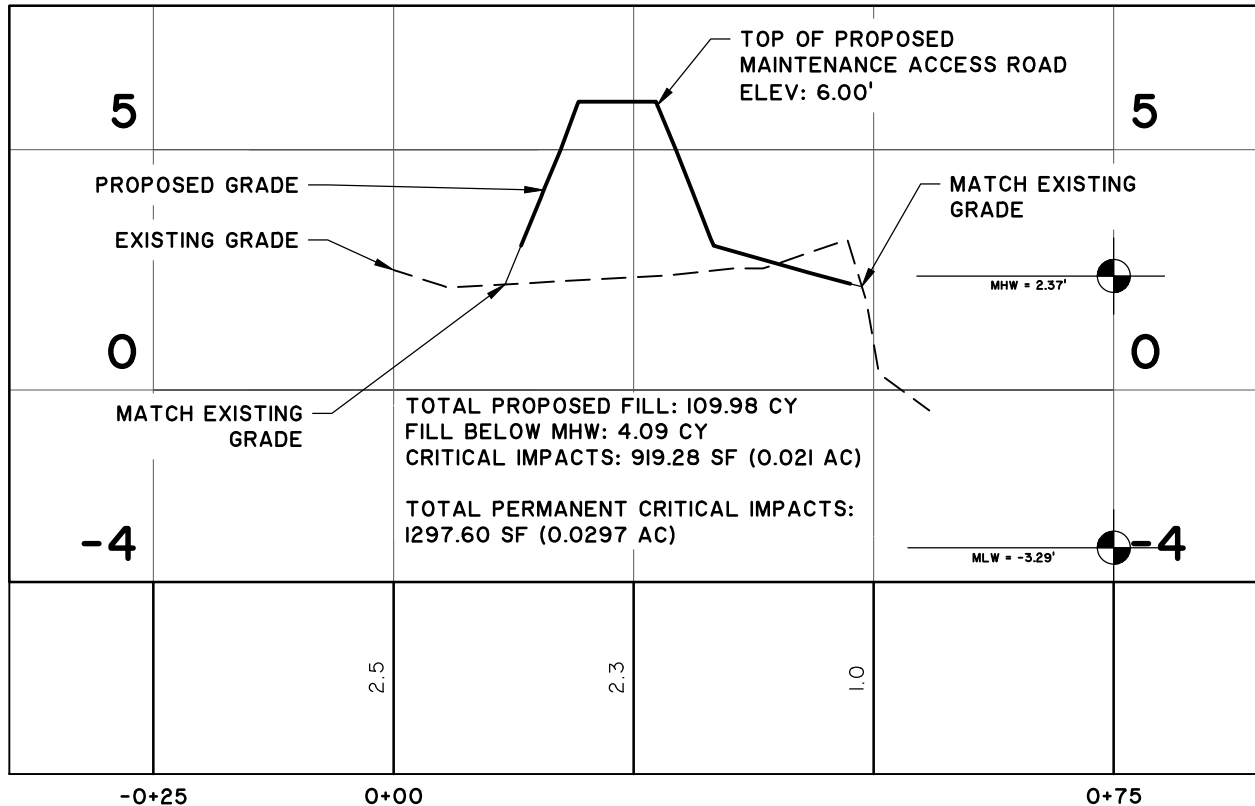
SHEET: 3 OF 7

SCALE: 1" = 20'



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PROPOSED ACCESS

STATIONS: -0+25 - 0+75

SCALE: HORZ.: 1" = 20'

VERT.: 1" = 4'



OCEAN WINDS #15 TIDAL GATE

PROFILE VIEW

CLIENT:

SEABROOK ISLAND POA

LOCATION: #####

DATE: 10/03/23

JOB NUMBER: J-27897.0001

DRAWN BY: WTH

REVIEWED BY: RPK

SHEET: 3 OF 7

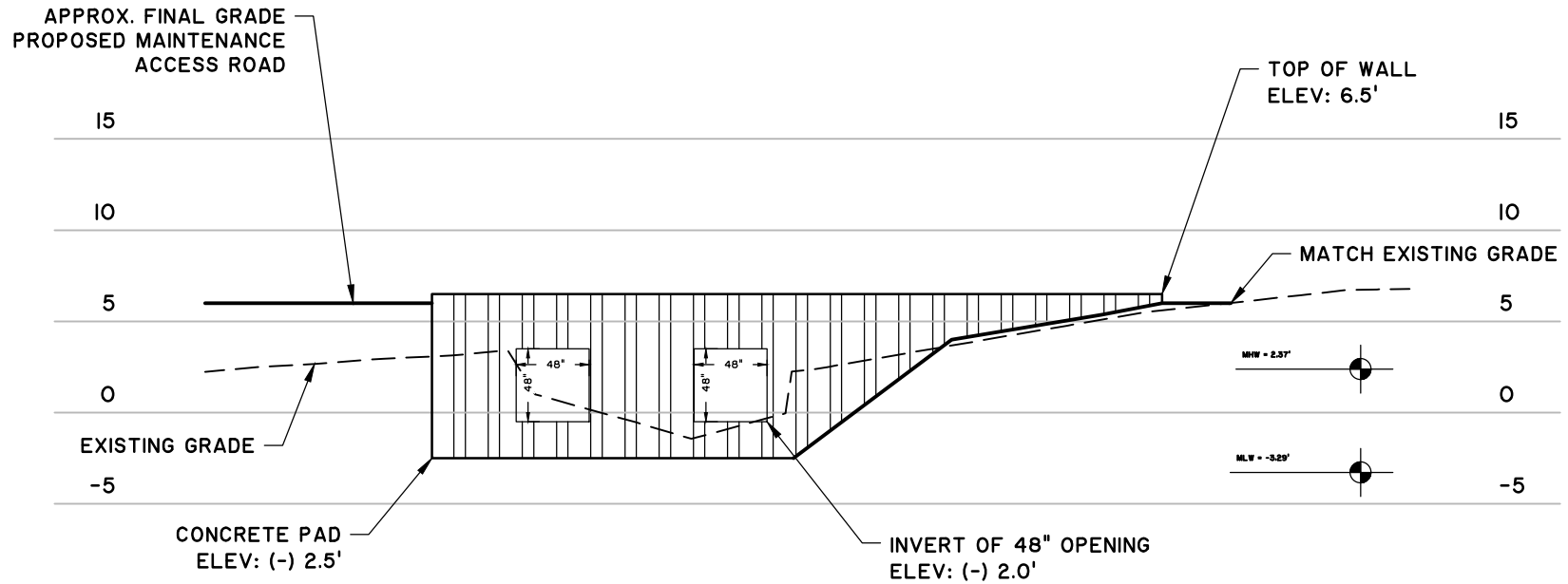
SCALE: 1" = 20'



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OCEAN WINDS #15 TIDAL GATE

SECTION VIEW

CLIENT:

SEABROOK ISLAND POA

LOCATION: SEABROOK ISLAND, SC

DATE: 10/03/23

JOB NUMBER: J-27897.0001

DRAWN BY: WTH

REVIEWED BY: RPK

SHEET: 4 OF 7

SCALE: 1" = 10'

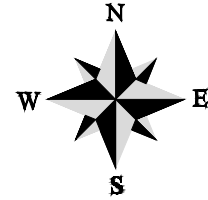


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GOLF COURSE
TBM 17+00-00+00
THE CLUB AT SEABROOK ISLAND

OCEAN WINDS #15 TIDAL GATE

LOCATION EXHIBIT

CLIENT:

SEABROOK ISLAND POA

LOCATION: SEABROOK ISLAND, SC

DATE: 10/03/23

JOB NUMBER: J-27897.0001

DRAWN BY: WTH

REVIEWED BY: RPK

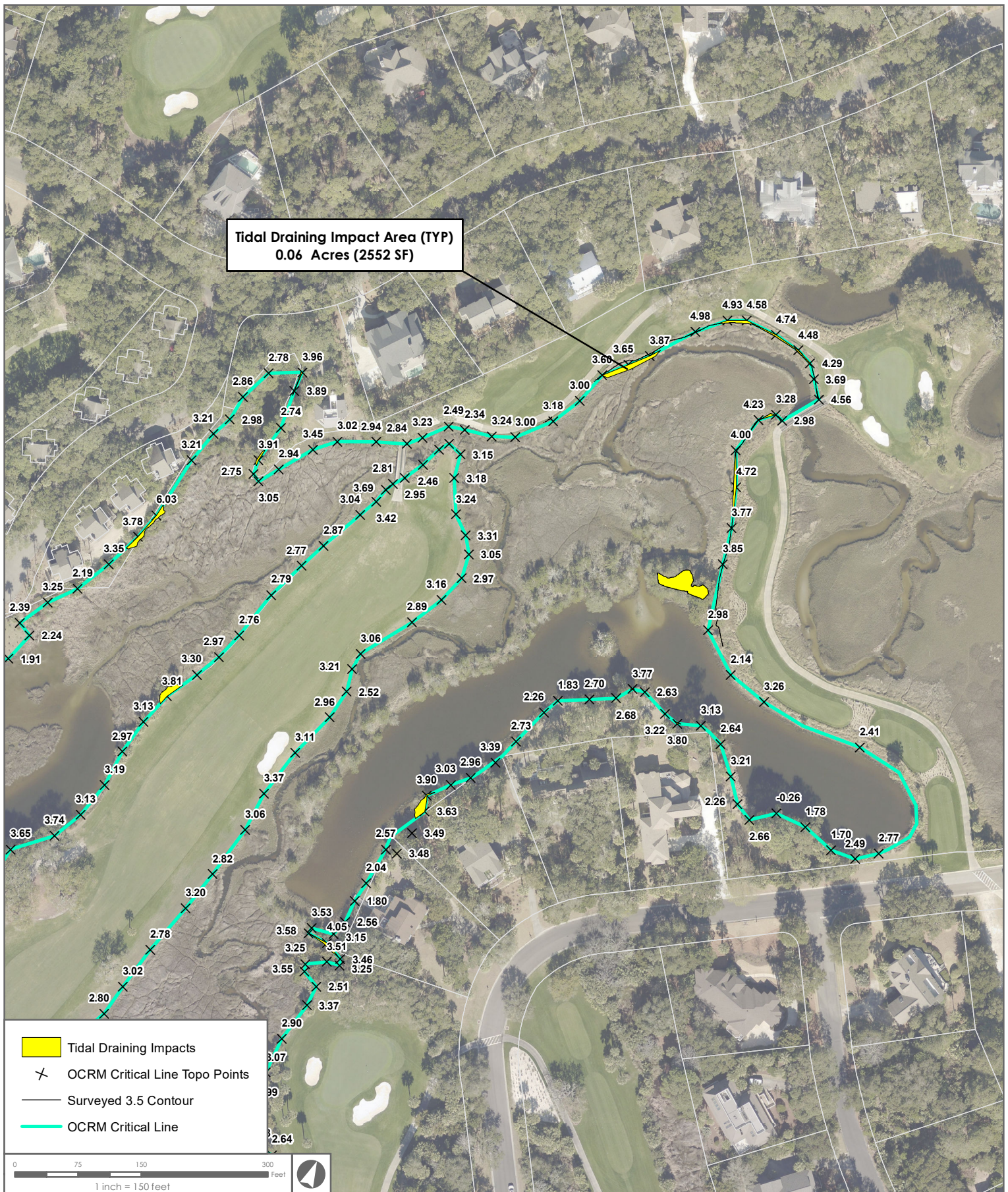
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SCALE: 1" = 50'



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Seabrook Island Ocean Winds #15 Tidal Gate Seabrook Island, SC Critical Area Impacts

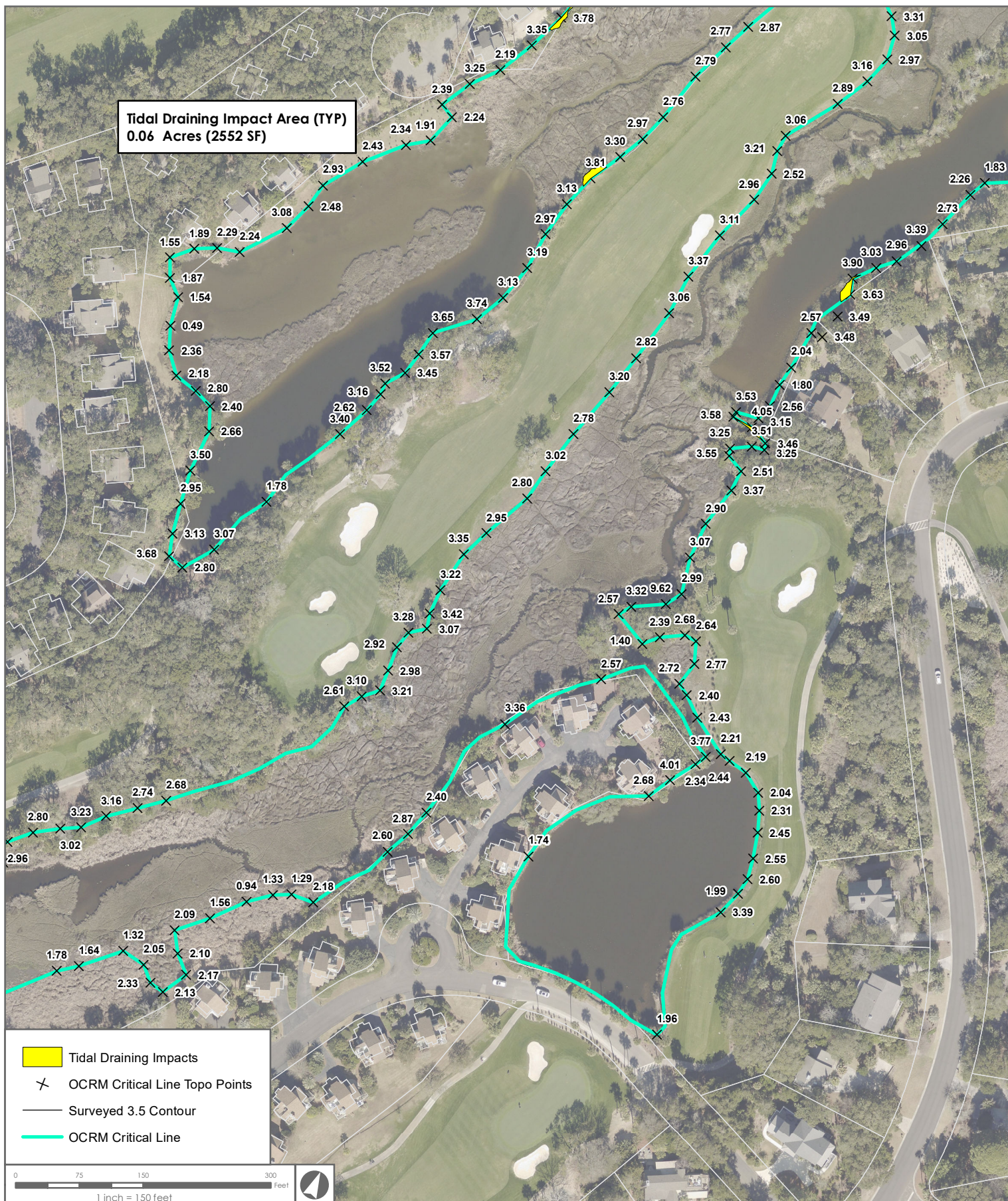


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Job Number:	Produced:	Produced By:	Modified: 10/6/2023	Modified By:
File: Z:\27897\27897 0001\GIS\Map\OceanWinds\CriticalArea\Permit Drawings\OWP\TH\TidalGate\TidalGate.mxd				
Thomas & Hutton compiled the map information from the following sources:				
Date	Source	Date	Source	Date
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Seabrook Island Ocean Winds #15 Tidal Gate Seabrook Island, SC Critical Area Impacts



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Tidal Draining Impact Area (TYP)
0.06 Acres (2552 SF)



- Tidal Draining Impacts
- OCRM Critical Line Topo Points
- Surveyed 3.5 Contour
- OCRM Critical Line

				
Job Number:	Produced:	Produced By:	Modified: 10/6/2023	Modified By:
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Data	Source			Date
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Seabrook Island Ocean Winds #15 Tidal Gate Seabrook Island, SC Critical Area Impacts



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