

JOINT
PUBLIC NOTICE

CHARLESTON DISTRICT, CORPS OF ENGINEERS

750 Executive Center Drive, Suite 103

Greenville, South Carolina 29615

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: SAC-2022-00606

November 28, 2023

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

Mr. Matthew Fountain

City of Charleston, Director of Stormwater Management

2 George Street, Suite 2100

Charleston, South Carolina 29401

Mr. Daniel Zurlo

WK Dickson & CO, Inc.

720 Corporate Center Drive

Raleigh, North Carolina 27607

dzurlo@wkdickson.com

for a permit to place fill material to reduce flooding in subdivisions in

Unnamed tributaries and adjacent wetlands of Penny Creek

located north of Maybank Highway and southwest of River Road, on Johns Island, Charleston County, South Carolina (Latitude: 32.7440°, Longitude: -80.0469°), Legareville 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 is to address flooding and other stormwater issues within the neighborhood.

Project Description

The proposed work consists of impacting approximately 6.29 acres of wetlands and 305 linear feet of stream to construct a new stream alignment and three wetland storage cells to divert high flows from a stream at the southern part of the project area to a flood bypass channel and through a series of wetland storage complexes. In detail, approximately 68,400 cubic yards of material will be excavated to create the new stream alignment and three wetland storage cells. Excavated material not hauled offsite will be used to create and enhance surrounding features. Approximately 10,195 cubic yards of material will be excavated from wetlands and 9,044 cubic yards of fill will be placed in wetlands. Approximately 318.3 cubic yards of material will be excavated from jurisdictional streams and 291.75 cubic yards of fill will be placed in jurisdictional streams.

A rock toe revetment will result in 0.05 acre of temporary wetland impact along the north bank of an existing stream which will re-route flows from a >1" storm event to the proposed Wetland Cell 3. Approximately 0.84 acre of excavation will be required to construct the first wetland cell. A 10' wide maintenance berm with a 4:1 side slope will be constructed around the perimeter, resulting in approximately 0.46 acre of permanent wetland impacts. Approximately 1.22 acres of wetland will be filled to construct a sand seepage berm that will extend from the southeastern side of the third wetland cell and loop east and south around existing on-site wetlands. Approximately 0.74 acre of temporary clearing will be required for construction access of the sand seepage berm (Impact W3). To the northeast of the rock toe, approximately 94 linear feet (0.01 acre) of existing stream will be permanently impacted to install 80 linear feet of 8" perforated pipe. The pipe will carry base flows under the berm.

Wetland Cell 3 will connect to Wetland Cell 2 via a newly constructed channel with a 4' bottom width and 4:1 side slopes. A 10' wide maintenance berm will be constructed on both sides of this connecting channel. Approximately 4.78 acres of upland forested area

will be cleared and excavated to create the second wetland flood storage cell. 10' and 20' wide maintenance berms will border the second wetland cell, which will be constructed with microtopographic features and will have outer slopes of 3:1 and inner slopes of 6:1. At the southern end or upgradient portion of the second wetland cell, a 500' long pedestrian walking path with a prefabricated pedestrian bridge is proposed across the width of the project area. The eastern end of the path will serve as maintenance access, which will require approximately 0.07 acre of clearing and fill of an existing wetland.

Wetland Cell 2 will connect to Wetland Cell 1 via 93 linear feet of a 36" x 48" RCBC pipe. The RCBC pipe will contain native sediment to promote aquatic organism passage between flood storage wetlands. Wetland Cell 1 currently consists of an historic mine pit that is open-water habitat with fringe wetlands. Approximately 3.62 acres will be excavated in and around the old mine pit to create new flood storage capacity. The flood storage area will include microtopographic grading and a 20'-wide maintenance berm with 3:1 side slopes.

The flood storage system will reconnect to Stream 1 via trapezoidal cobble weir outlet from Wetland Cell 3. The weir will have 4:1 side slopes and a 1' bottom width. This will result in the filling of the existing jurisdictional Mine Pit outlet stream and 0.02 ac. (211 lf) of permanent stream impact. Downstream of this connection point, Stream 1 will be filled and a new, larger channel will be constructed to convey storm flows (513 lf/0.09 ac.). The new channel will be the same length as the existing channel. The new stream will be excavated to form a channel with 4:1 side slopes and a 1' bottom width. This channel will connect to the existing culvert at the downstream end of the original Stream 1 as it flows off the site and into the adjacent neighborhood.

Total impacts are listed on the chart below:

Feature Name	Feature Type	Activity	Temporary/Permanent Impact	Area (ac.)	Linear Feet (lf.)
Wetlands					
W1	PFO	Fill for sand seepage berm around wetland cell 3	Permanent	1.22	
W2	PFO	Maintenance access and berm for wetland cell 3	Permanent	0.46	
W3	PFO	Clearing for construction access at sand seepage berm	Temporary	0.74	
W4	PFO	Clearing for construction access at rock toe	Temporary	0.05	
W5	PFO	Excavation for wetland cell 3	Permanent	0.84	
W6	PFO	Clearing for construction access and pedestrian walking path	Permanent	0.07	
W7	PFO/POW	Excavation for wetland cell 1 at mine pit	Permanent	3.62	
W8	PFO	Fill for floodplain construction around weir	Permanent	0.06	
W9	PFO	Fill for floodplain construction around weir	Permanent	0.02	
Total Permanent Wetland Impacts:				6.29 acres	
Streams					
S1	Perennial	80 linear feet of 8" perforated pipe	Permanent	0.01	94
S2	Perennial	Stream diversion through mine pit	Permanent	0.02	211
Total Permanent Stream Impacts:				0.03 acres	305 linear feet

PFO- Palustrine Forested Wetlands

POW- Palustrine Open Water

Avoidance and Minimization

The applicant has stated that the proposed project will avoid and/or minimize impacts to the aquatic environment by stating the following: *Three alternatives were considered, including the preferred alternative, the rejected 60% Design, and a No-Build Alternative. Wetlands and streams were delineated prior to the completion of the project design to avoid and minimize impacts to jurisdictional Waters of the U.S. (WOTUS) to the maximum extent practicable while still achieving project goals. Approximately 14.65 acres were determined to be palustrine forested and open water wetlands with 1,550 linear feet (0.25 acres) of streams within the 21.69-acre site. Through multiple iterations of the design, impacts to WOTUS were significantly reduced from 9.15 to 6.29 acres, and impacts to jurisdictional tributaries were reduced from 741 linear feet (0.18 ac.) to 305 lf (0.03 ac.).*

Proposed Compensatory Mitigation

The applicant has proposed to mitigate for impacts to wetlands and/or waters of the United States by purchasing 44 wetland credits and 806.025 stream credits from an

approved mitigation bank. The total credits required for the project are 59 wetland credits and 1074.7 stream credits, but the applicant is requesting a 25% reduction in credits. The are proposing to preserve and buffer the remaining waters on-site to receive that reduction. The total waters proposed to be preserved are 7.17 acres of wetlands and 641 linear feet of stream.

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 freshwater wetlands inland 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(s) 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*), Wood Stork (*Mycteria americana*), Northern Long-eared Bat (*Myotis septentrionalis*), Atlantic Sturgeon (*Acipenser oxyrinchus*), Shortnose Sturgeon (*Acipenser brevirostrum*), Finback Whale (*Balaenoptera physalus*), Humpback Whale (*Megaptera novaeangliae*), Right Whale (*Eubalaena glacialis*), Sei Whale (*Balaenoptera borealis*), and Sperm Whale (*Physeter macrocephalis*).

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*), Red-cockaded Woodpecker (*Picoides borealis*), Rufa Red Knot (*Calidris canutus rufa*), Wood Stork (*Mycteria americana*), Atlantic Sturgeon (*Acipenser oxyrinchus*), Shortnose Sturgeon (*Acipenser brevirostrum*), Finback Whale (*Balaenoptera physalus*), Humpback Whale (*Megaptera novaeangliae*), Right Whale (*Eubalaena glacialis*), Sei Whale (*Balaenoptera borealis*), Piping Plover (*Charadrius melodus*), Rufa Red Knot (*Calidris canutus rufa*), and Sperm Whale (*Physeter macrocephalis*) and will not result in the destruction or adverse modification of designated or proposed critical habitat.

The project is not likely to adversely affect Northern Long-eared Bat (*Myotis septentrionalis*) or result in the destruction or adverse modification of designated or proposed critical habitat. This public notice serves as a request for written concurrence from the U.S. Fish and Wildlife Service and/or the National Marine Fisheries Service on this determination.

This public notice serves as a request to the U.S. Fish and Wildlife Service (USFWS project code: 2023-0056606) 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)), 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 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 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-2022-00606), to Kristin.B.Andrade@usace.army.mil or the following address:

**U.S. Army Corps of Engineers
ATTN: REGULATORY DIVISION
750 Executive Center Drive, Suite 103
Greenville, South Carolina 29615**

If there are any questions concerning this public notice, please contact Kristin B. Andrade, Team Leader, at (864) 992-0713, or by email at Kristin.B.Andrade@usace.army.mil.

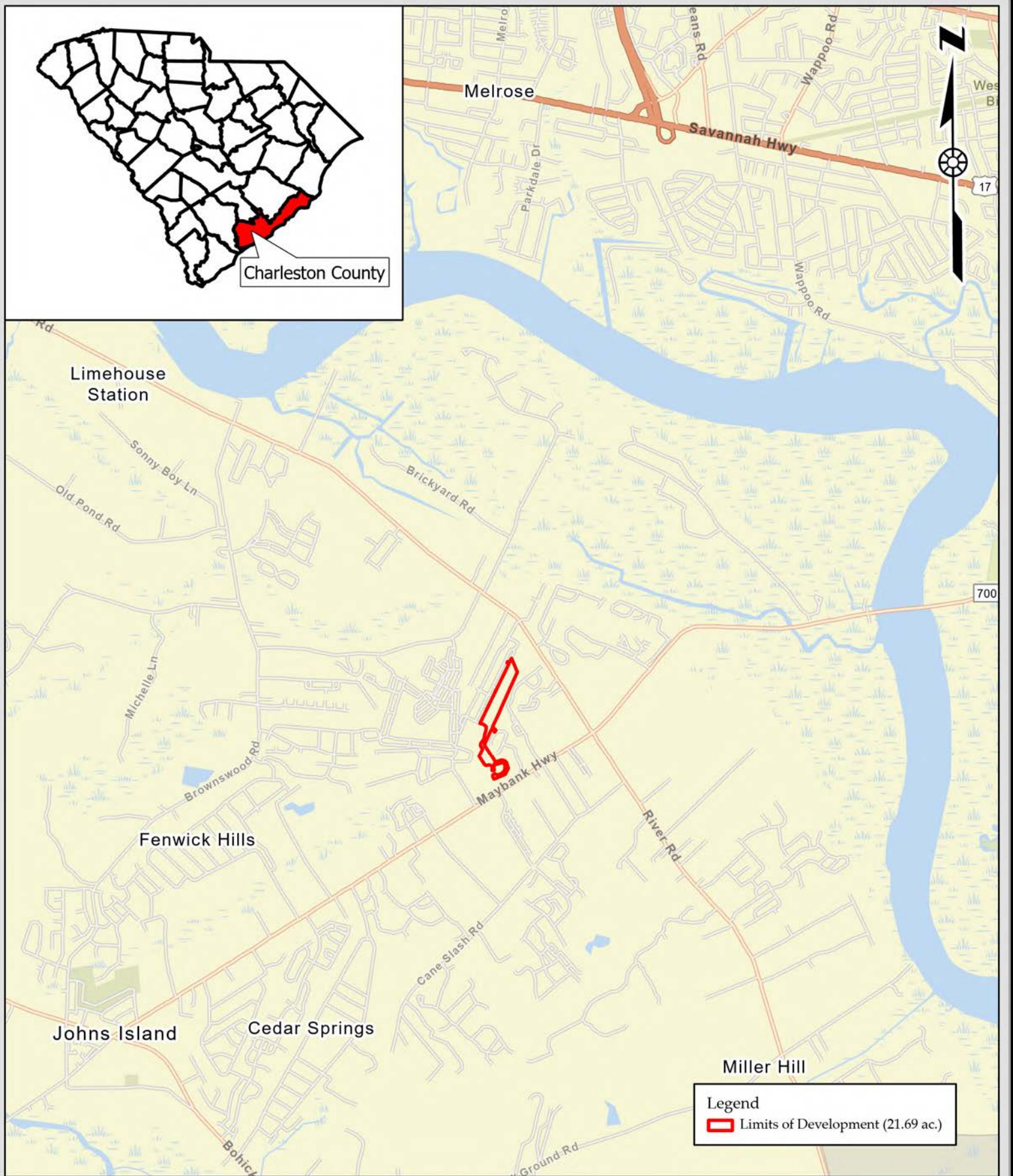


Figure 1. Vicinity Map
Barberry Woods Drainage Project
 City of Charleston
 Charleston County, South Carolina

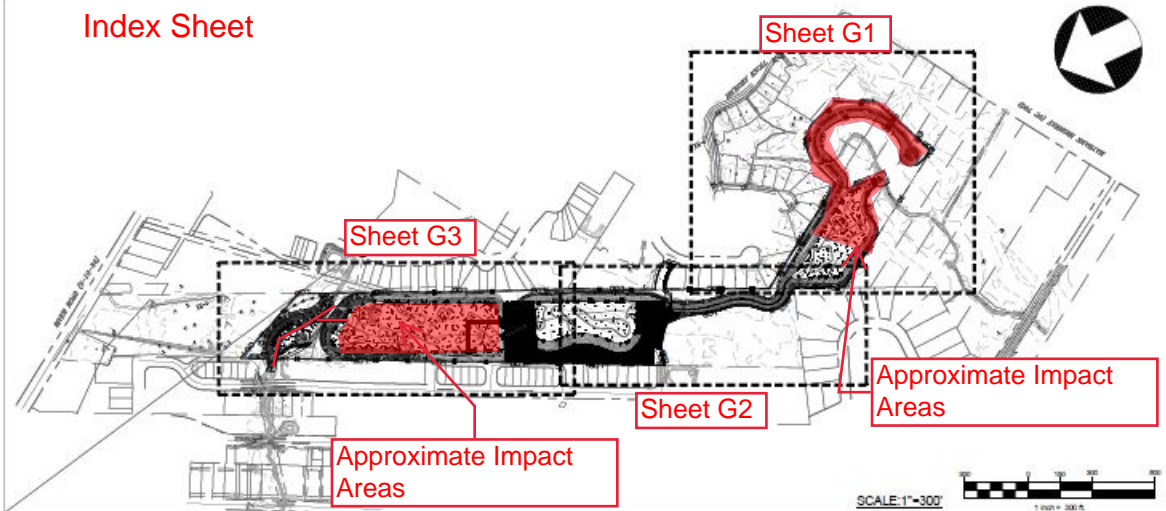


0 125 250 500
Feet
1 inch equals 250 feet

Barberry Woods Drainage Project Delineation Findings



Index Sheet



LEGEND

EXISTING CONTOUR MAJOR 10

EXISTING CONTOUR MINOR 8

PROPOSED CONTOUR MAJOR 15

PROPOSED CONTOUR MINOR 11

EXISTING FENCELINE

LIMITS OF DISTURBANCE LOD

TEMPORARY CONSTRUCTION EASEMENT TCE

PERMANENT DRAINAGE EASEMENT PDE

MICROTOPOGRAPHIC FLOODPLAIN GRADING LIMITS

EXISTING WETLANDS

PROPOSED COBBLE RIFFLE (SEE DETAIL 1/D1)

PROPOSED SAND SEEPAGE BERM (SEE DETAIL 1/D3)

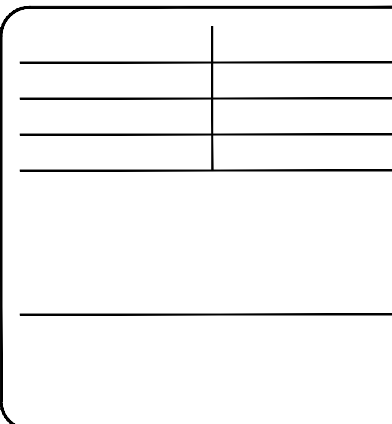
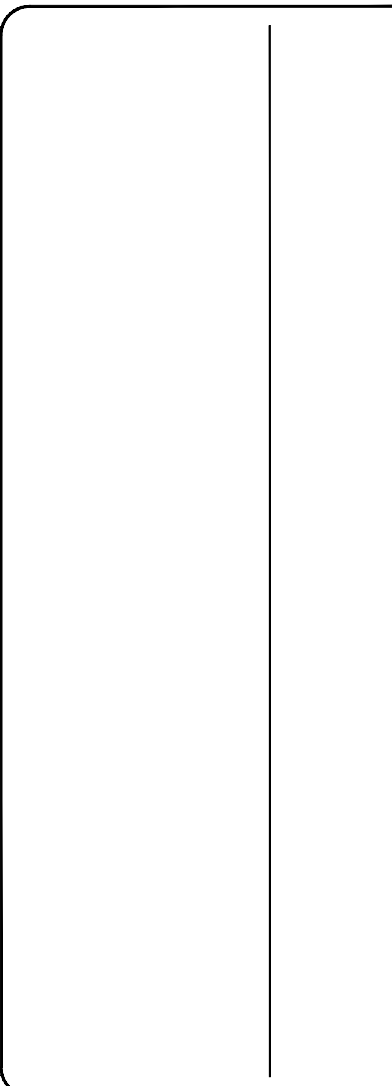
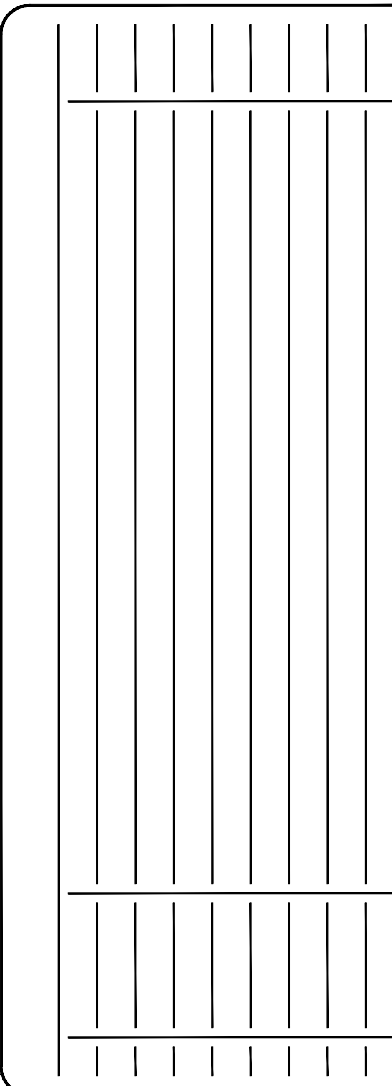
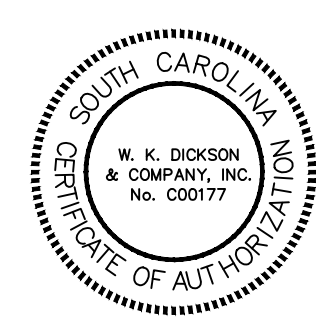
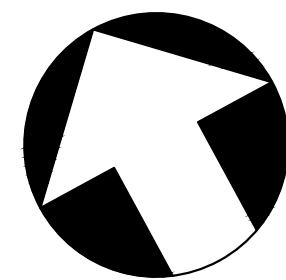
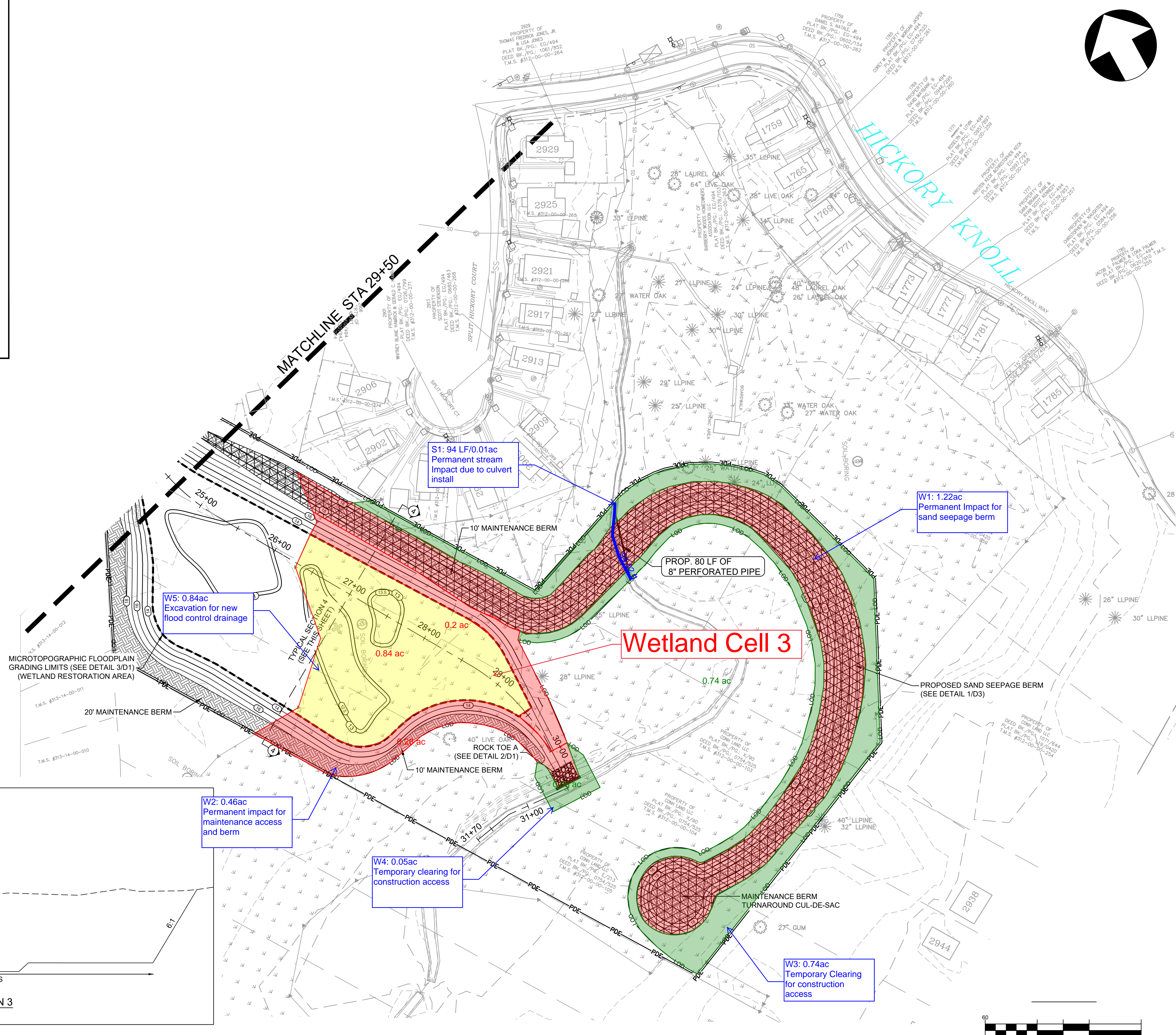
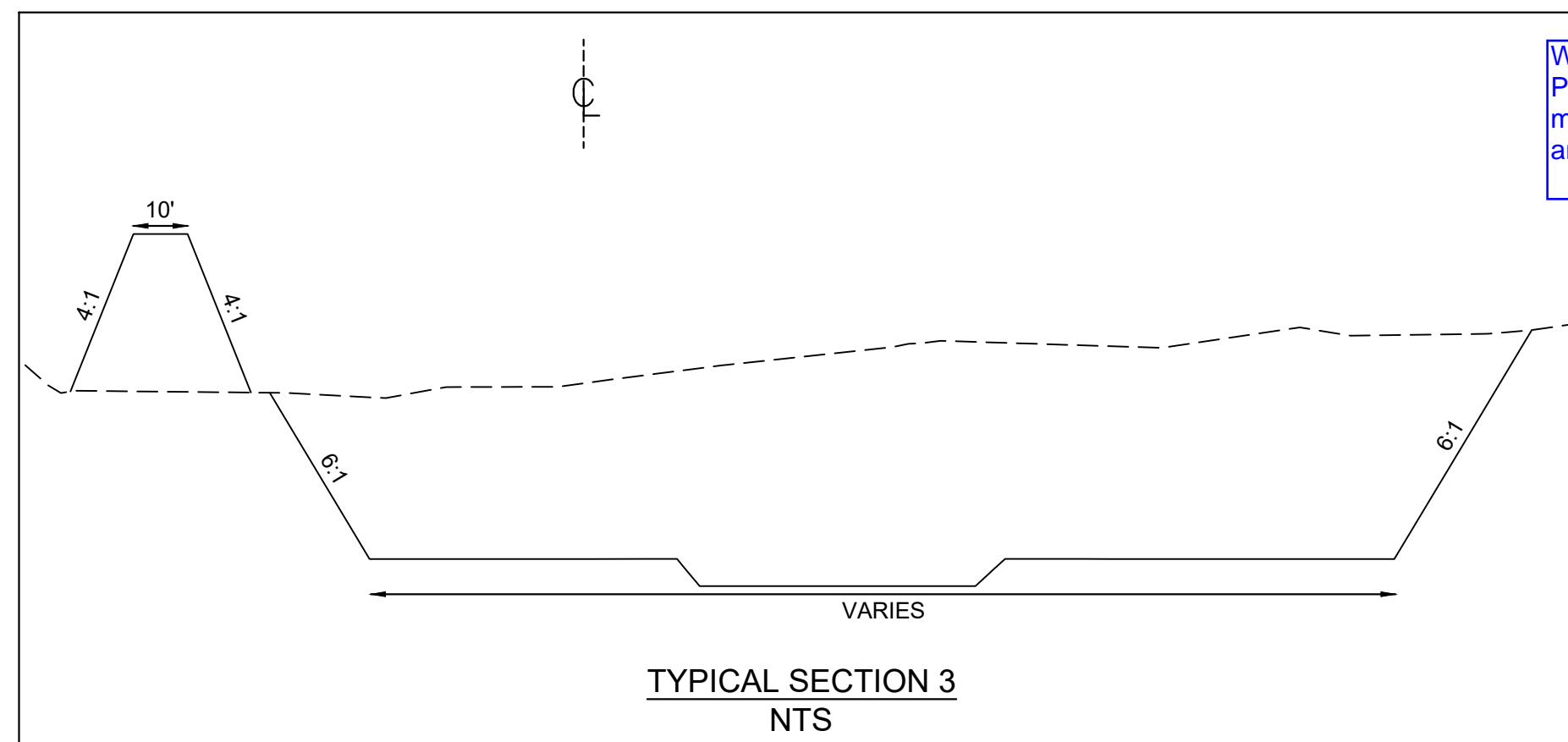
PROPOSED WOOD TOE (SEE DETAIL 1/D4)

PROPOSED LOG SILL (SEE DETAIL 4/D2)

CUT/FILL SUMMARY				
Cut Factor	Fill Factor	Cut (CY)	Fill (CY)	Net (CY)
1.10	1.00	68,400	15,400	53,000 <Cut>

NOTES:

1. FOR EVERY 100 LF ALONG ALIGNMENT FROM STATION 3+00 TO 24+00 CONTRACTOR SHALL INSTALL THE FOLLOWING (LOCATION TO BE DETERMINED BY DESIGNATED SPECIALIST):
 - 1.1. TWO (2) STANDING SNAGS PER DETAIL 4/D1
 - 1.2. TWO (2) ROOTWADS PER DETAIL 1/D2
 - 1.3. TWO (2) INVERTED ROOTWADS PER DETAIL 2/D2
 - 1.4. THREE (3) DOWNED LOGS PER DETAIL 3/D2
2. COMPACTION OF NON-STRUCTURAL FILL SHALL BE MINIMIZED DURING CONSTRUCTION.



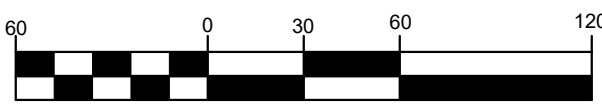
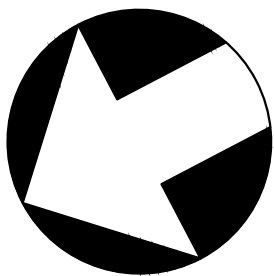
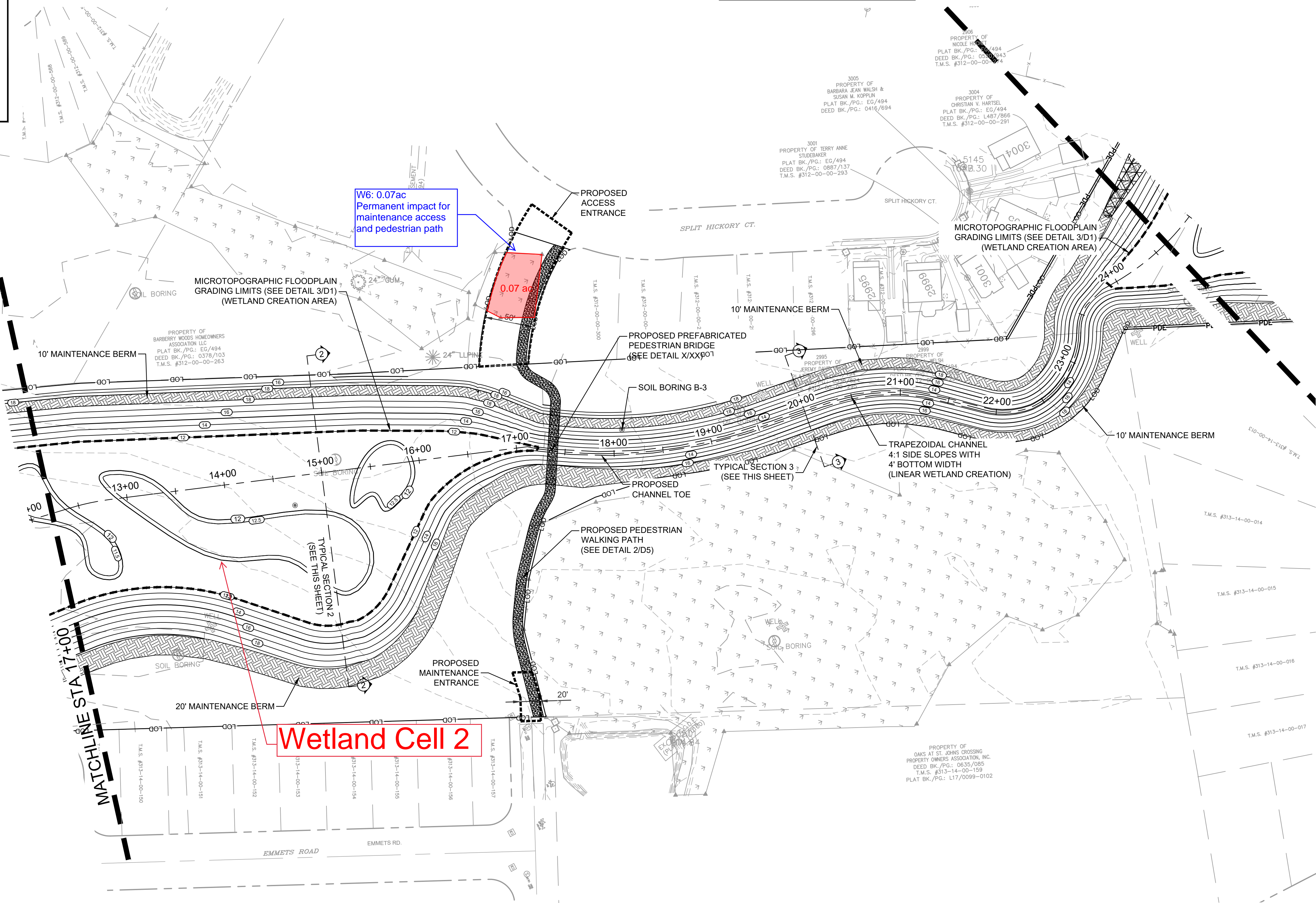
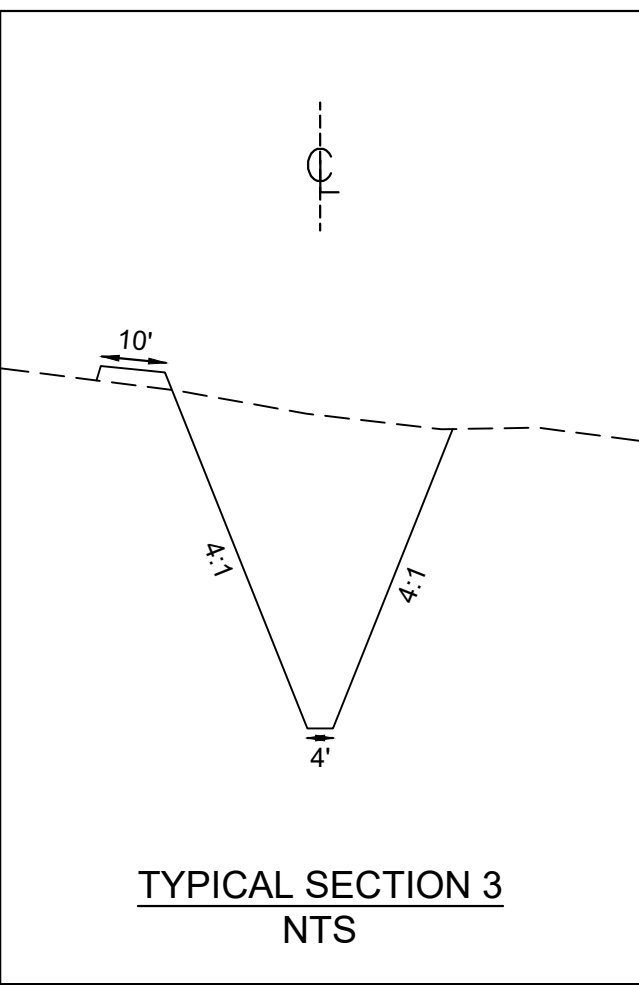
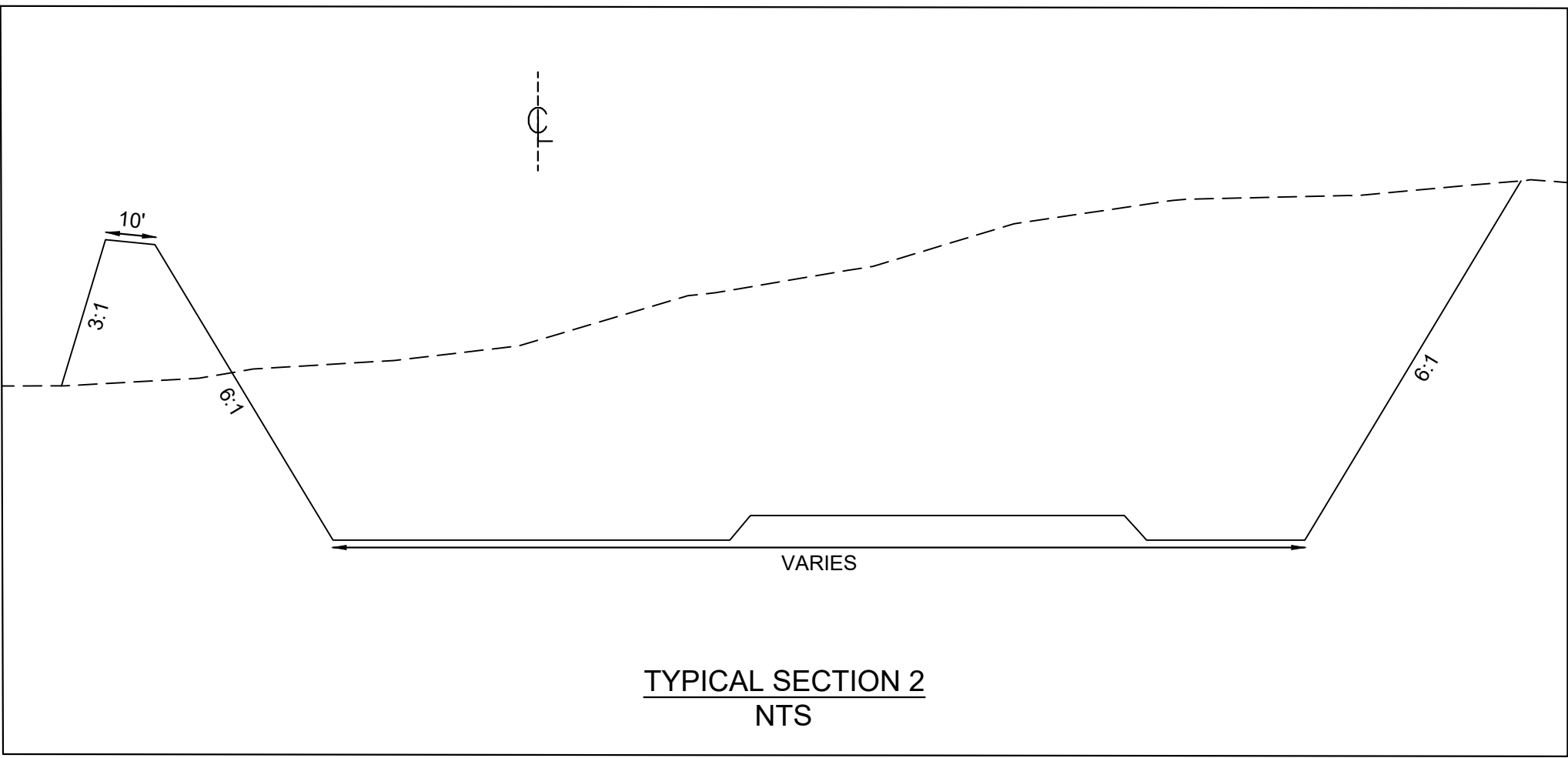
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LEGEND

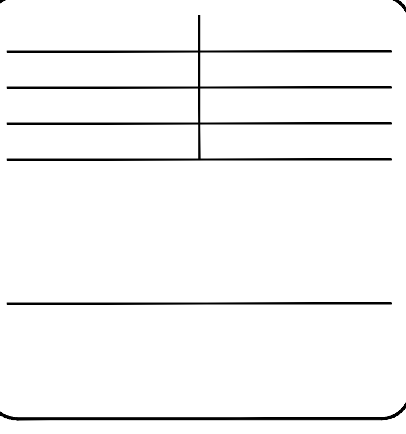
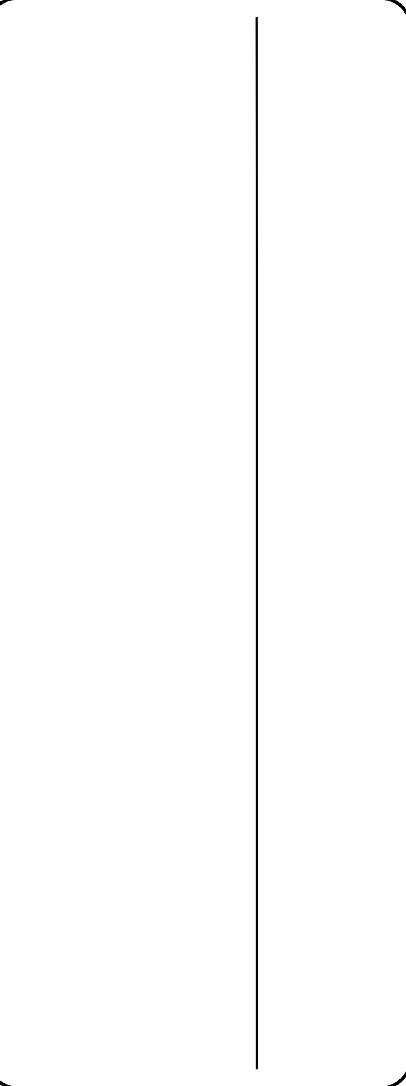
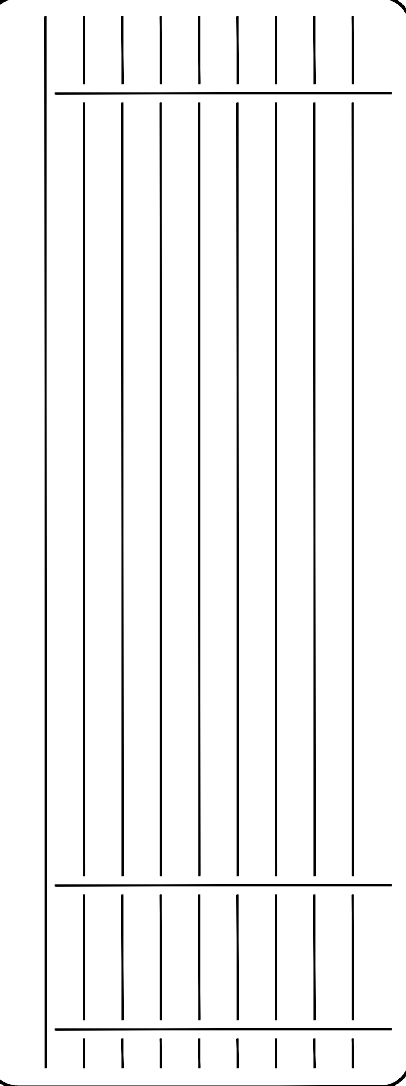
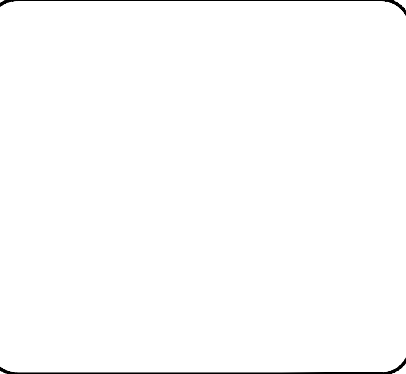
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EXISTING CONTOUR MINOR ——— 8' ———
PROPOSED CONTOUR MAJOR ——— (15) ———
PROPOSED CONTOUR MINOR ——— (11) ———
EXISTING FENCELINE — x — x — x — x — x — x — x — x —
LIMITS OF DISTURBANCE — LOD — LOD —
TEMPORARY CONSTRUCTION EASEMENT — TCE —
PERMANENT DRAINAGE EASEMENT — PDE — PDE — PDE —
MICROTOPOGRAPHIC FLOODPLAIN GRADING LIMITS ————
EXISTING WETLANDS ————
PROPOSED COBBLE RIFFLE (SEE DETAIL 1/D1) ————
PROPOSED SAND SEEPAGE BERM (SEE DETAIL 1/D3) ————
PROPOSED WOOD TOE (SEE DETAIL 1/D4) ————
PROPOSED LOG SILL (SEE DETAIL 4/D2) ————

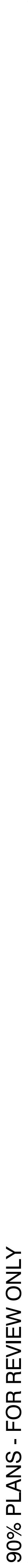
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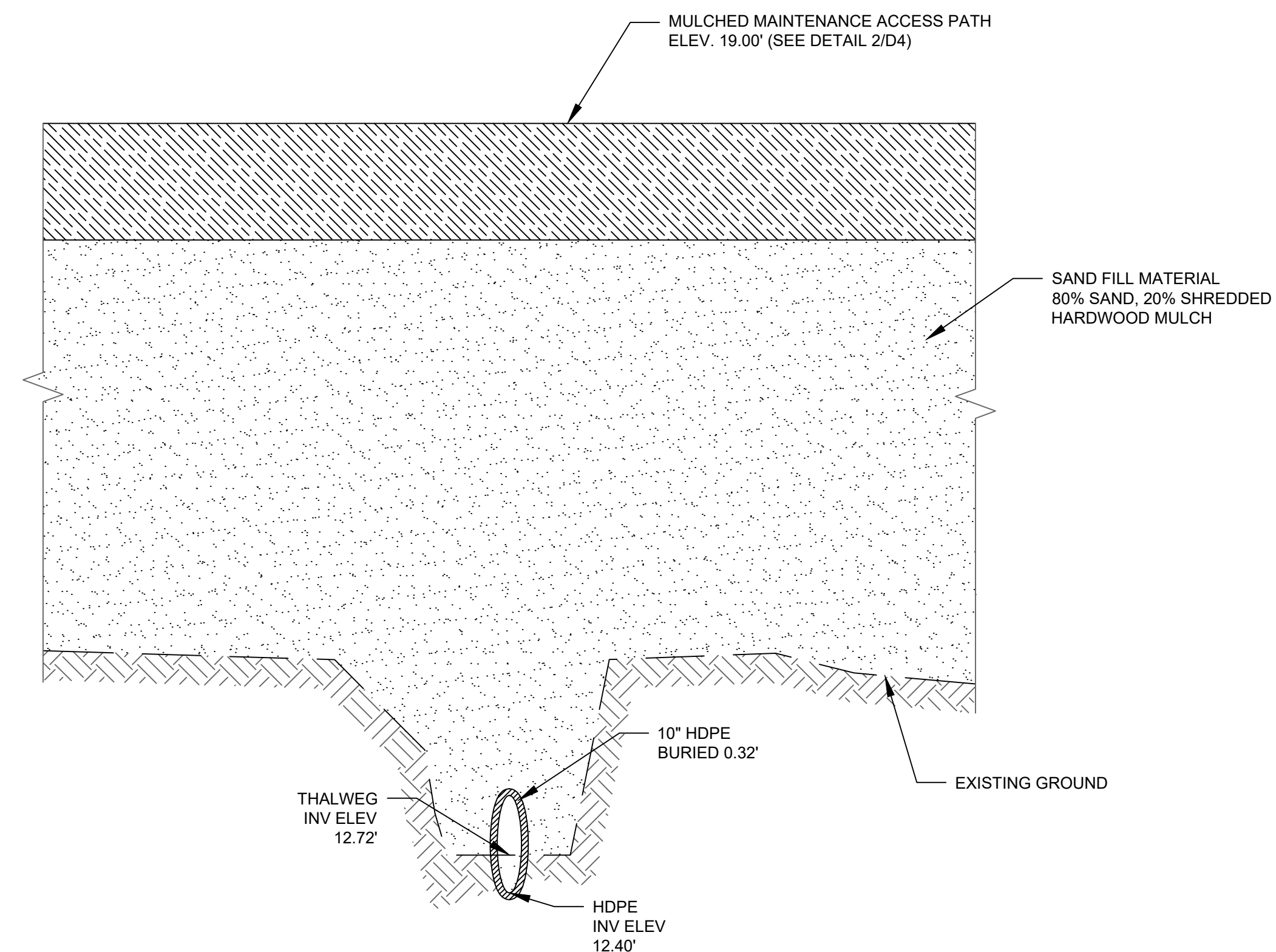
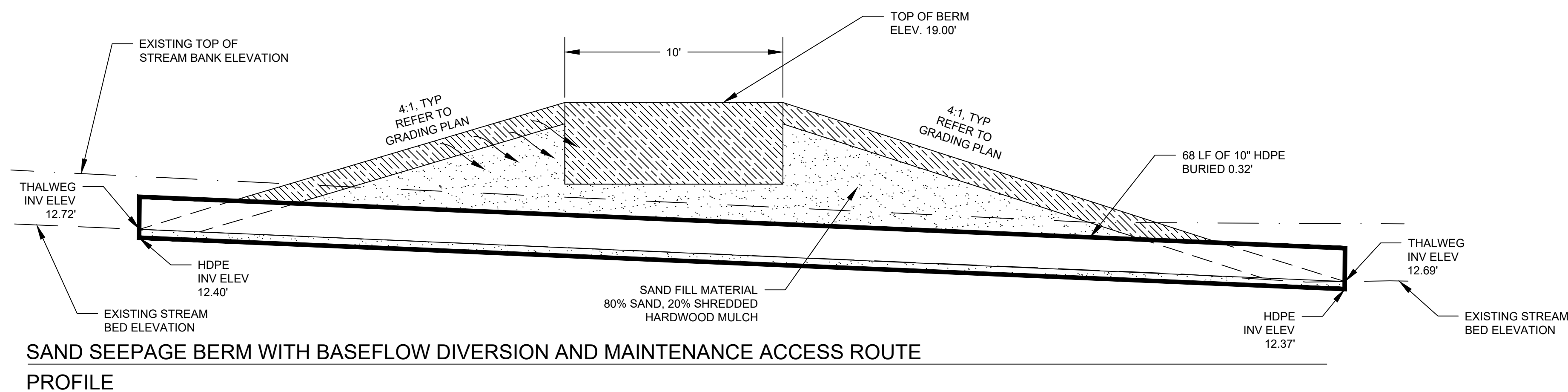


SCALE: 1"=60'

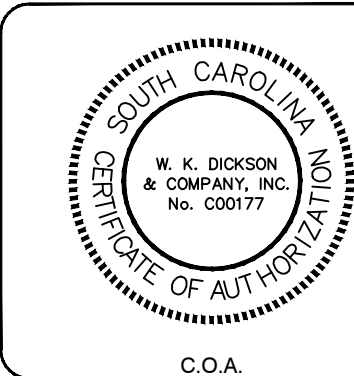


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FILE PATH: Z:\Project\Charleston\20009960\04 - Battery Woods Damage Project\CADD\Plan Set\20009960-04 - C_SIT_BIO_DETAILS.dwg, BBYRNE, 1/14/2023 1:45:55 PM



SAND SEEPAGE BERM WITH BASEFLOW DIVERSION AND MAINTENANCE ACCESS ROUTE
CROSS SECTION



PROFESSIONAL SEAL

[illegible]

PROJECT NAME:

BARBERRY WOODS DRAINAGE IMPROVEMENTS

DRAWING TITLE:

STORMWATER DETAILS

PROJ. MGR.:	MTH
DESIGN BY:	BFB
DRAWN BY:	BFB/ATM
PROJ. DATE:	APRIL 2023

DRAWING NUMBER:

D3

WKD PROJ. NO.:

2020039800RA

90% PLANS - FOR REVIEW ONLY

Legend

Limits of Disturbance (21.6 ac.)

Preserved Streams

Preserved Wetlands

Wetlands

Parcels

Acquisition Type

Fee Simple

Permanent Drainage Esmt

3 ac. of PFO wetland to be preserved

PDE Area 19.74 Acres total- included in 6/17/21 Appraisal Report
Total Appraised Value = \$738,000.00

PDE Area 6.12 Acres total- included in 3/9/22 Appraisal Report
Total Appraised Value = \$376,200.00

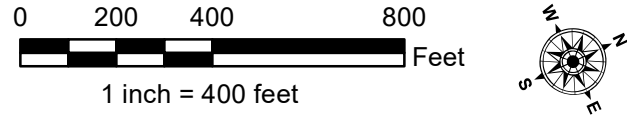
4.17 of exsiting 6.69 ac. of PFO wetland to be preserved.

641 lf of 735 lf of perennial stream to be preserved.

Tract 3805
Proposed Real Estate Boundary

PDE Area 1.02 Acres total- included in 6/9/22 Appraisal Report
Total Appraised Value of New PDE Area = \$0.00

TMS	Owner	Physical Address		Deed Book Page	Plat Book Page	Acquisition Type
3120000103	CONH LAND LLC	2938	MAYBANK HWY	0754-525	X-90	FEE SIMPLE
3120000104	CONH LAND LLC	2944	MAYBANK HWY	0754-525	X-90	FEE SIMPLE
3120000105	CONH LAND LLC	2948	MAYBANK HWY	0754-525	E-213	FEE SIMPLE
3120000084	ALSTON SAMUEL ESTATE ETAL	1584	RIVER RD	G116-030	F-179	FEE SIMPLE
3120000254	CONH LAND LLC	2942	MAYBANK HWY	1071-644	L19- 0420	PDE
3120000263	BARBERRY WOODS HOMEOWNERS ASSOCIATION LLC		HICKORY KNOLL	0378-103	EG-494	PDE



Wetland and Stream Preservation

Barberry Woods Drainage Project

