

DEPARTMENT OF THE ARMY
Wilmington District, Corps of Engineers
Post Office Box 1890
Wilmington, North Carolina 28402-1890

Action ID No. 199701755

December 8, 2003

PUBLIC NOTICE

The NORTH CAROLINA DEPARTMENT OF TRANSPORTATION (NCDOT), c/o DR. GREGORY J. THORPE, PHD, MANAGER, PROJECT DEVELOPMENT AND ENVIRONMENTAL ANALYSIS BRANCH, 1548 MAIL SERVICE CENTER, RALEIGH, NORTH CAROLINA 27699-1548 HAS APPLIED FOR A DEPARTMENT OF THE ARMY PERMIT TO DISCHARGE FILL MATERIAL INTO 1.45 ACRES OF JURISDICTIONAL WETLANDS AND 1480 FEET OF JURISDICTIONAL STREAMS INTO HOWE CREEK AND FOUR OF ITS UNNAMED TRIBUTARIES TO CONSTRUCT THE MILITARY CUTOFF WIDENING PROJECT FROM NORTH OF EASTWOOD ROAD TO MARKET STREET, WILMINGTON, NEW HANOVER COUNTY, NORTH CAROLINA (TIP PROJECT NO. U-2734).

The following description of the work is taken from data provided by the applicant and from observations made during site visits by representatives of the Corps of Engineers.

History: The State Environmental Assessment (SEA) prepared by the North Carolina Department of Transportation describing this project was approved on April 28, 2000 and on August 26, 2002, a State Finding of No Significant Impact was prepared (FONSI).

The project now being considered for authorization is the widening of Military Cutoff Road (SR 1409) from two lanes to a four lane divided facility with a raised median from Drysdale Drive to US 17 (Market Street). From Drysdale Drive to 0.2 miles north of Drysdale Drive and from Station Road to Paradise Way, a four-lane divided with raised median roadway with grassed shoulders is proposed on the west side and curb and gutter is proposed along the east side of Military Cutoff. From 0.2 miles north of Drysdale Drive to Station Road, a four-lane grassed shoulder section is proposed. From Paradise Way to US 17, a four-lane curb and gutter section is proposed. A 10-foot wide bicycle and pedestrian path is proposed along the east side of Military Cutoff from Drysdale Drive to the Gordon Road Extension Project (TIP Project No. U-2725).

The proposed project crosses Howe Creek and four of its unnamed tributaries. The portion of Howe Creek and its tributaries within the project have been assigned a DWQ Index No. of 18-87-23 and best usage classification of SA, ORW. Waters with a classification of SA, ORW are defined as High Quality Waters by the North Carolina Division of Water Quality. Dominant vegetation includes pond pine (*Pinus serotina*), loblolly pine (*P. taeda*), sweet gum

(*Liquidambar styraciflua*), red maple (*Acer rubrum*), red bay (*Persea borbonia*) and a variety of broad leaved, evergreen shrubs including fetterbush (*Lyonia lucida*) and gallberry (*Ilex glabra*, *I. coriacea*). Soils within the project area are the Kureb-Baymeade-Rimini and Murville-Seagate-Leon associations. The Murville-Seagate-Leon association is the prevalent soil association in the study area. Specific hydric soil types found in the study area include Bayboro loam, Johnston soils, Kureb sand, Leon sand, Murville sand, Rains fine sandy loam, Seagate fine sand, and Torhunta loamy fine sand. The project is located within the Coastal Plain Physiographic Province in New Hanover County in the Cape Fear River Basin (Hydrologic Catalog Unit 03030001, Subbasin 03-06-24).

Construction of the proposed project will permanently impact 1.45 acres of non-riverine wetlands and 1480 feet of jurisdictional stream associated with Howe Creek. Permanent impacts to jurisdictional wetlands are summarized as follows:

Wet Pine Flatwoods	0.06 acres
Bottomland Hardwoods	0.32 acres
Pond Pine Woodland	1.07 acres
Total Wetland Impacts	1.45 acres

The NCDOT is proposing to use onsite mitigation opportunities and the North Carolina Ecosystem Enhancement Program (EEP) to provide the necessary compensatory mitigation for the unavoidable wetland and stream impacts associated with this project. The proposed compensatory mitigation for 1.45 acres of non-riverine wetland impacts will be provided by the EEP. The proposed compensatory mitigation for 1480 feet of perennial stream impacts is summarized below:

1. Natural channel design and relocation of 456 linear feet of stream impacted within Site 1 of U-2734 at a mitigation ratio of 1:1.
2. Preservation of 614 linear feet of stream within the Site 1 right-of-way of U-2734 at a mitigation ratio of 1:1.
3. Compensatory mitigation is proposed to consist of mitigation provided by the EEP for the remaining 410 linear feet of stream impacts.

The purpose of the work is to increase the capacity and safety of Military Cutoff Road. A map showing the location of the proposed road is included with this public notice. The SEA and FONSI, complete set of plan sheets, and the complete mitigation proposal and plans may be inspected at the U.S. Army Corps of Engineers, Regulatory Division office, 69 Darlington Avenue, Wilmington, North Carolina between the hours of 8:00 am and 4:30 pm Monday through Friday.

The applicant has determined that the proposed work is consistent with the North Carolina Coastal Zone Management Plan and has submitted this determination to the North Carolina Division of Coastal Management (NCDCM) for its review and concurrence.

This proposal shall be reviewed for the applicability of other actions by North Carolina agencies such as:

- a. The issuance of a Water Quality Certification under Section 401 of the Clean Water Act by the North Carolina Division of Water Quality (NCDWQ).
- b. The issuance of a permit to dredge and/or fill under North Carolina General Statute 113-229 by the North Carolina Division of Coastal Management (NCDCM).
- c. The issuance of a permit under the North Carolina Coastal Area Management Act (CAMA) by the North Carolina Division of Coastal Management (NCDCM) or their delegates.
- d. The issuance of an easement to fill or otherwise occupy State-owned submerged land under North Carolina General Statute 143-341(4), 146-6, 146-11, and 146-12 by the North Carolina Department of Administration (NCDA) and the North Carolina Council of State.
- e. The approval of an Erosion and Sedimentation Control Plan by the Land Quality Section, North Carolina Division of Land Resources (NCDLR), pursuant to the State Sedimentation Pollution Control Act of 1973 (NC G.S. 113 A-50-66).

The requested Department of the Army (DA) permit will be denied if any required State or local authorization and/or certification is denied. No DA permit will be issued until a State coordinated viewpoint is received and reviewed by this agency. Recipients of this notice are encouraged to furnish comments on factors of concern represented by the above agencies directly to the respective agency, with a copy furnished to the Corps of Engineers.

This notice initiates the Essential Fish Habitat (EFH) consultation requirements of the Magnuson-Stevens Fishery Conservation and Management Act. The District Engineer's initial determination is that the proposed project would not adversely impact EFH or associated fisheries managed by the South Atlantic or Mid Atlantic Fishery Management Councils or the National Marine Fisheries Service.

This application is being considered pursuant to Section 404 of the Clean Water Act (33 U.S.C. 1344). 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 public hearing shall state, with particularity, the reasons for holding a public hearing.

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 site is not 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 archeological, scientific, prehistorical, or historical data may be lost or destroyed by work under the requested permit.

The District Engineer, based on available information, is not aware that the proposed activity will affect species, or their critical habitat, designated as endangered or threatened pursuant to the Endangered Species Act of 1973.

The decision, whether to issue a permit, will be based on an evaluation of the probable impacts, including cumulative impacts, of the proposed activity and its intended use on the public interest. Evaluation of the probable impacts that the proposed activity may have on the public interest requires a careful weighing of all those factors that become relevant in each particular case. The benefits that may be expected to accrue from the proposal must be balanced against its foreseeable detriments. The decision whether to authorize a proposal, and if so the conditions under which it will be allowed to occur, are therefore decided by the outcome of the general balancing process. That decision should reflect the national concern for both protection and use of important resources. All factors that may be relevant to the proposal must be considered including the cumulative effects of it. Among those are conservation, economics, aesthetics, general environmental concerns, wetlands, cultural values, fish and wildlife values, flood hazards and flood plain values (according to Executive Order 11988), land use, navigation, shore erosion and accretion, recreation, water supply and conservation, water quality, energy needs, safety, food and fiber production, mineral needs, considerations of property ownership, and, in general, the needs and welfare of the people. For activities involving the placement of dredged or fill materials in waters of the United States, a permit will be denied if the discharge that would be authorized would not comply with the Environmental Protection Agency's 404(b)(1) guidelines. Subject to the preceding sentence and any other applicable guidelines or criteria, a permit will be granted unless the District Engineer decides that it would be contrary to the public interest.

The Corps of Engineers is soliciting comments from the public; Federal, State and local agencies and officials; Indian Tribes and other interested parties to consider and evaluate the impacts of this proposed activity. Any comments received will be considered by the Corps of Engineers to decide whether to issue, modify, condition or deny a permit for this proposal. 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 (EA) and/or an Environmental Impact Statement (EIS) pursuant to the National Environmental Policy Act (NEPA). Comments are also used to decide the need for a public hearing and to decide the public interest of the proposed activity.

Generally, the decision whether to issue this Department of the Army (DA) permit will not be made until the North Carolina Division of Water Quality (NCDWQ) issues, denies, or waives State certification required by Section 401 of the Clean Water Act. The NCDWQ considers whether the proposed activity will comply with Sections 301, 302, 306, and 307 of the Clean Water Act. The application and this public notice for the Department of the Army (DA) permit serves as application to the NCDWQ for certification.

Additional information regarding the Clean Water Act certification may be reviewed at the offices of the Environmental Operations Section, North Carolina Division of Water Quality (NCDWQ), Salisbury Street, Archdale Building, Raleigh, North Carolina. Copies of such materials will be furnished to any person requesting copies upon payment of reproduction costs.

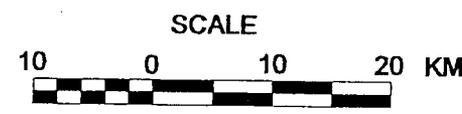
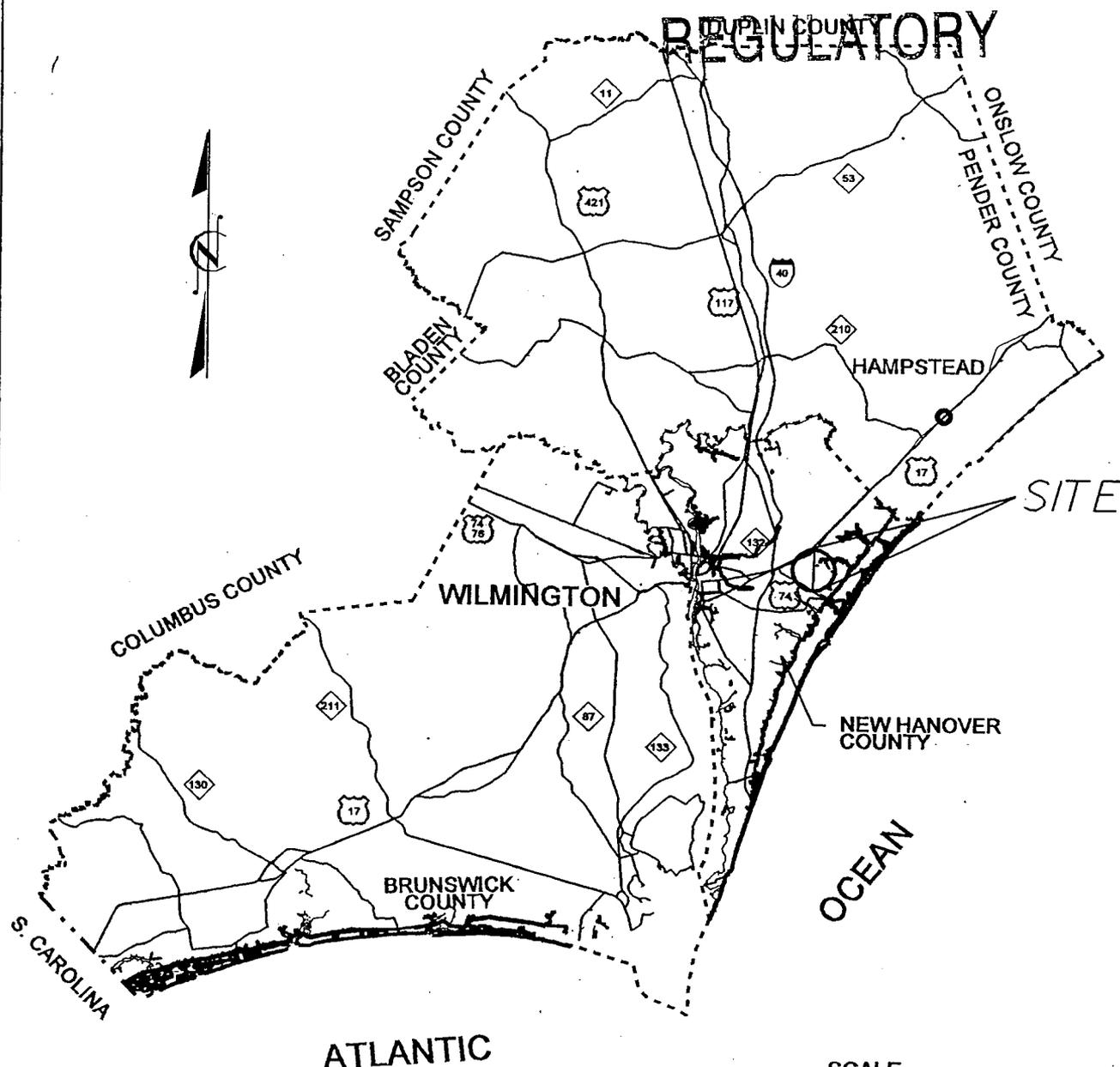
All persons wanting to make comments regarding the application for Clean Water Act certification should do so in writing delivered to the North Carolina Division of Water Quality (NCDWQ), 1621 Mail Service Center, Raleigh, North Carolina 27699-1621, on or before January 1, 2004, Attention: Mr. John Dorney.

Written comments pertinent to the proposed work, as outlined above, will be received in this office, Attention: Mr. Dave Timpy, until 4:15 p.m., January 8, 2004.

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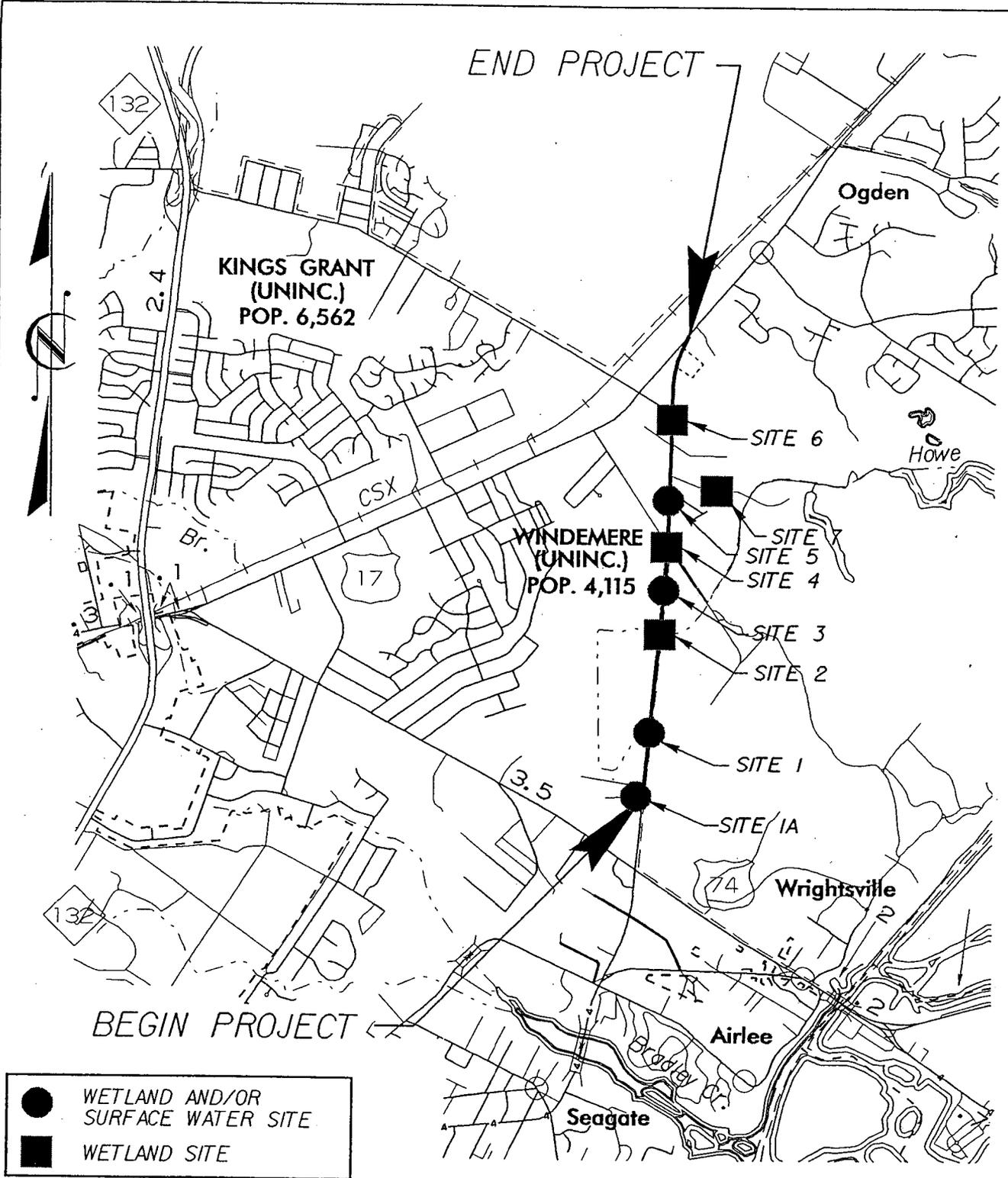
OCT 29 2004

REGULATORY



VICINITY MAP

N.C. DEPT. OF TRANSPORTATION
DIVISION OF HIGHWAYS
NEW HANOVER COUNTY
PROJECT 34857.1.1 (U-2734)
MILITARY CUT-OFF ROAD
IN WILMINGTON, NC

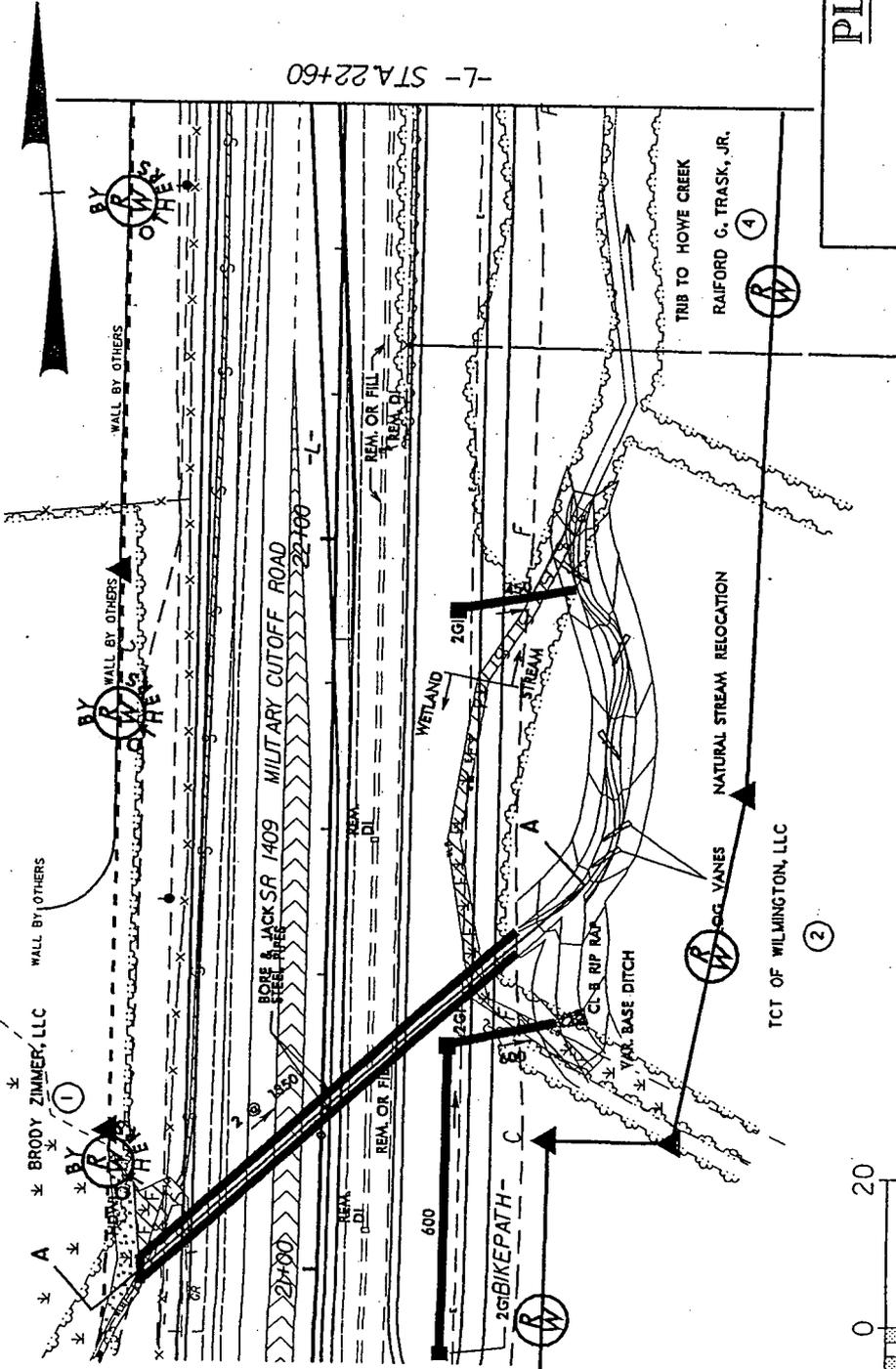


● WETLAND AND/OR SURFACE WATER SITE
 ■ WETLAND SITE

SITE MAP

N.C. DEPT. OF TRANSPORTATION
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 NEW HANOVER COUNTY
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 MILITARY CUT-OFF ROAD
 IN WILMINGTON, NC

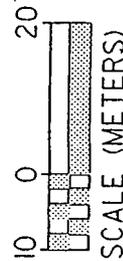
-L- STA. 22+60

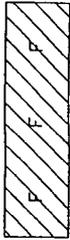


PLAN VIEW
SITE 1

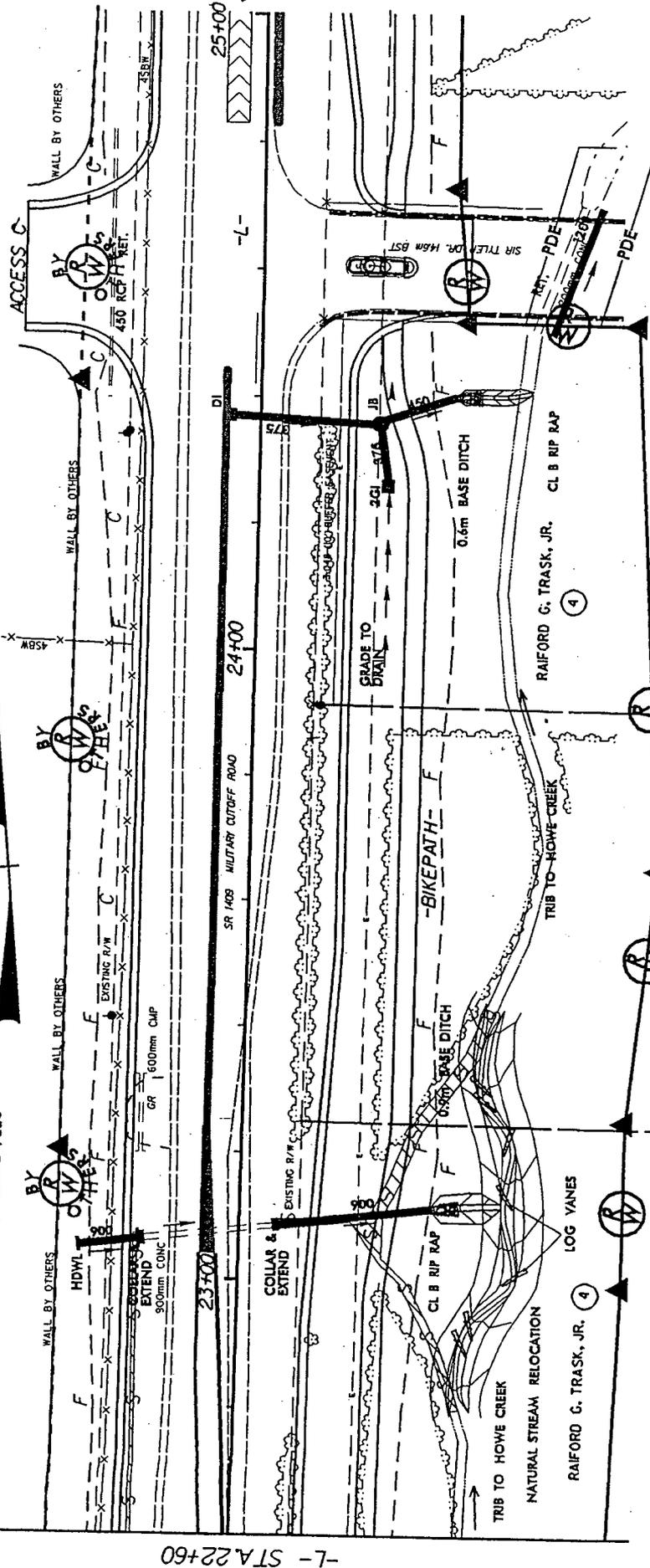
N. C. DEPT. OF TRANSPORTATION
DIVISION OF HIGHWAYS
NEW HANOVER COUNTY
PROJECT 34857.1.1 - U-2734
MILITARY CUT-OFF ROAD
IN WILMINGTON, NC

SHEET 6 OF 34 10/03



- 
 DENOTES FILL IN WETLANDS
- 
 DENOTES FILL IN SURFACE WATER
- 
 DENOTES MECHANIZED CLEARING

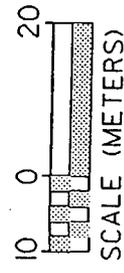
BRODY ZIMMER, LLC



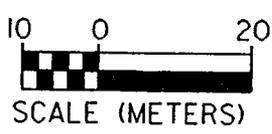
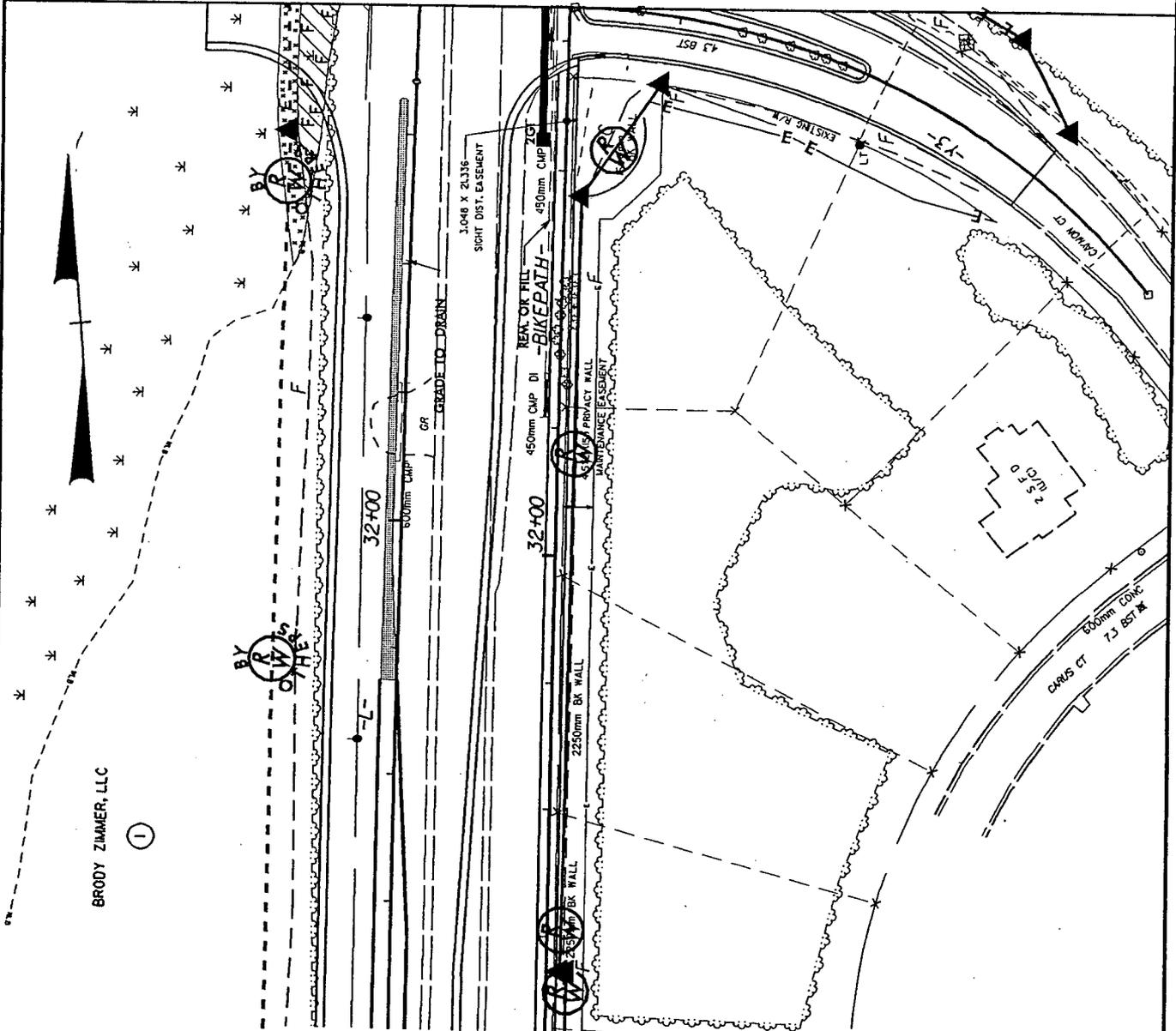
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PLAN VIEW
SITE 1

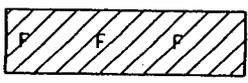
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MILITARY CUT-OFF ROAD
IN WILMINGTON, NC



 DENOTES FILL IN
 SURFACE WATER



DENOTES
MECHANIZED
CLEARING



DENOTES FILL
IN WETLAND

**PLAN VIEW
SITE 3**

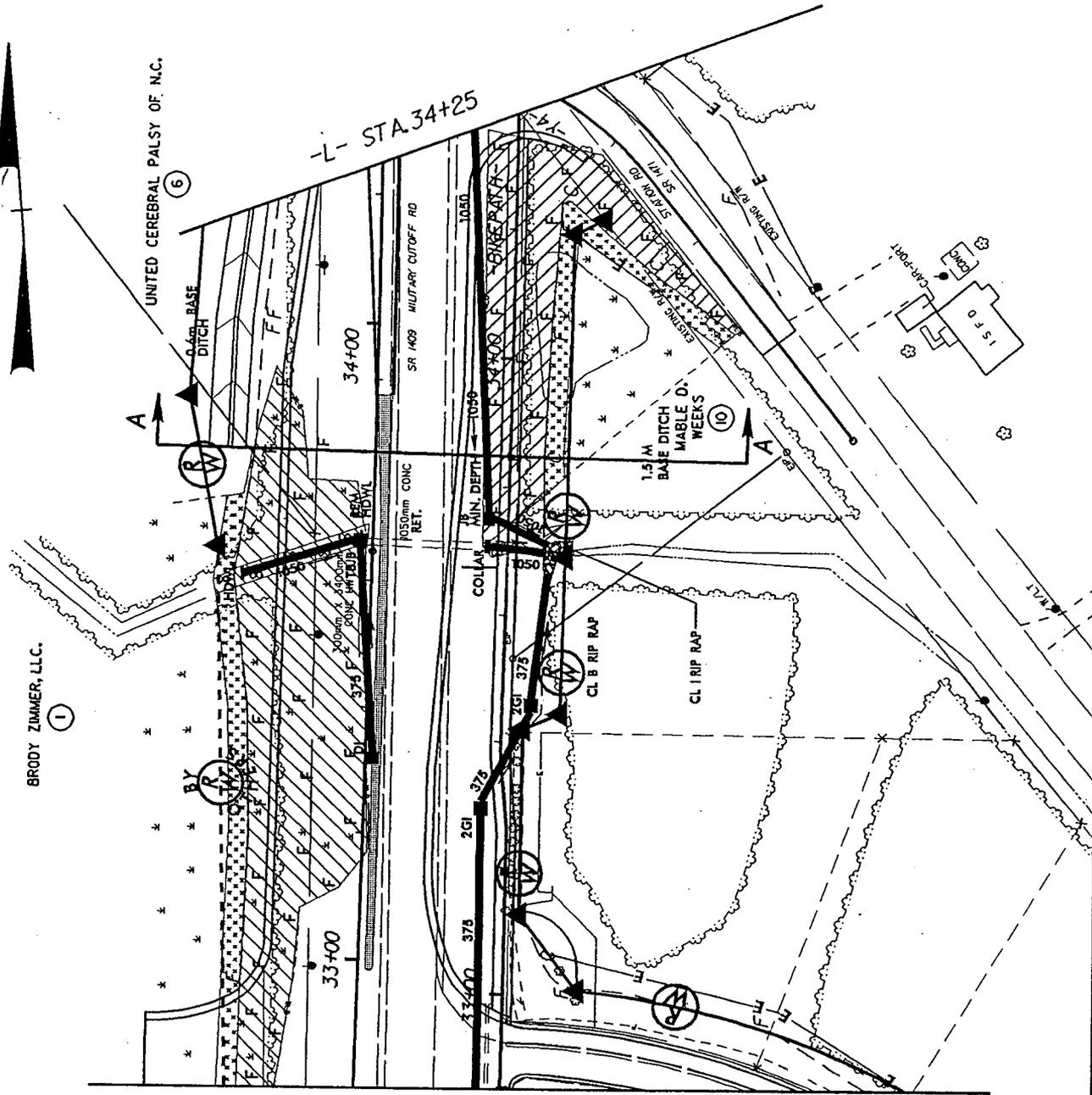
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NEW HANOVER COUNTY
PROJECT 34857.1.1 - U-2734
MILITARY CUT-OFF ROAD
IN WILMINGTON, NC



BRODY ZIMMER, LLC. (1)

UNITED CEREBRAL PALSY OF N.C. (6)

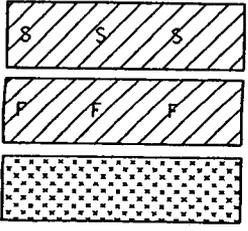
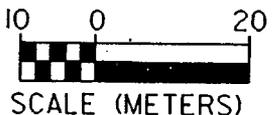
-L- STA. 34+25



-L- STA. 32+80

PLAN VIEW SITE 3

N.C. DEPT. OF TRANSPORTATION
 DIVISION OF HIGHWAYS
 NEW HANOVER COUNTY
 PROJECT 34857.1.1 - U-2734
 MILITARY CUT-OFF ROAD
 IN WILMINGTON, NC



S DENOTES FILL
IN SURFACE WATER

F DENOTES FILL
IN WETLAND

DOTTED DENOTES
MECHANIZED
CLEARING

UNITED CEREBRAL PALSY OF N.C.

6

LIFT STATION

ACCESS EASEMENT

0.6m BASE DITCH

L- STA 34+25

34+40

35+00

SR 1409

MILITARY CUTOFF RD

1050 RCP

CB

BIKEPATH

SR 1471

BST

STATION RD



- DENOTES DRAINED WETLANDS
- DENOTES EXCAVATION IN WETLAND
- DENOTES FILL IN WETLAND

JOHN W. BRIDGES

PLAN VIEW

SITE 4

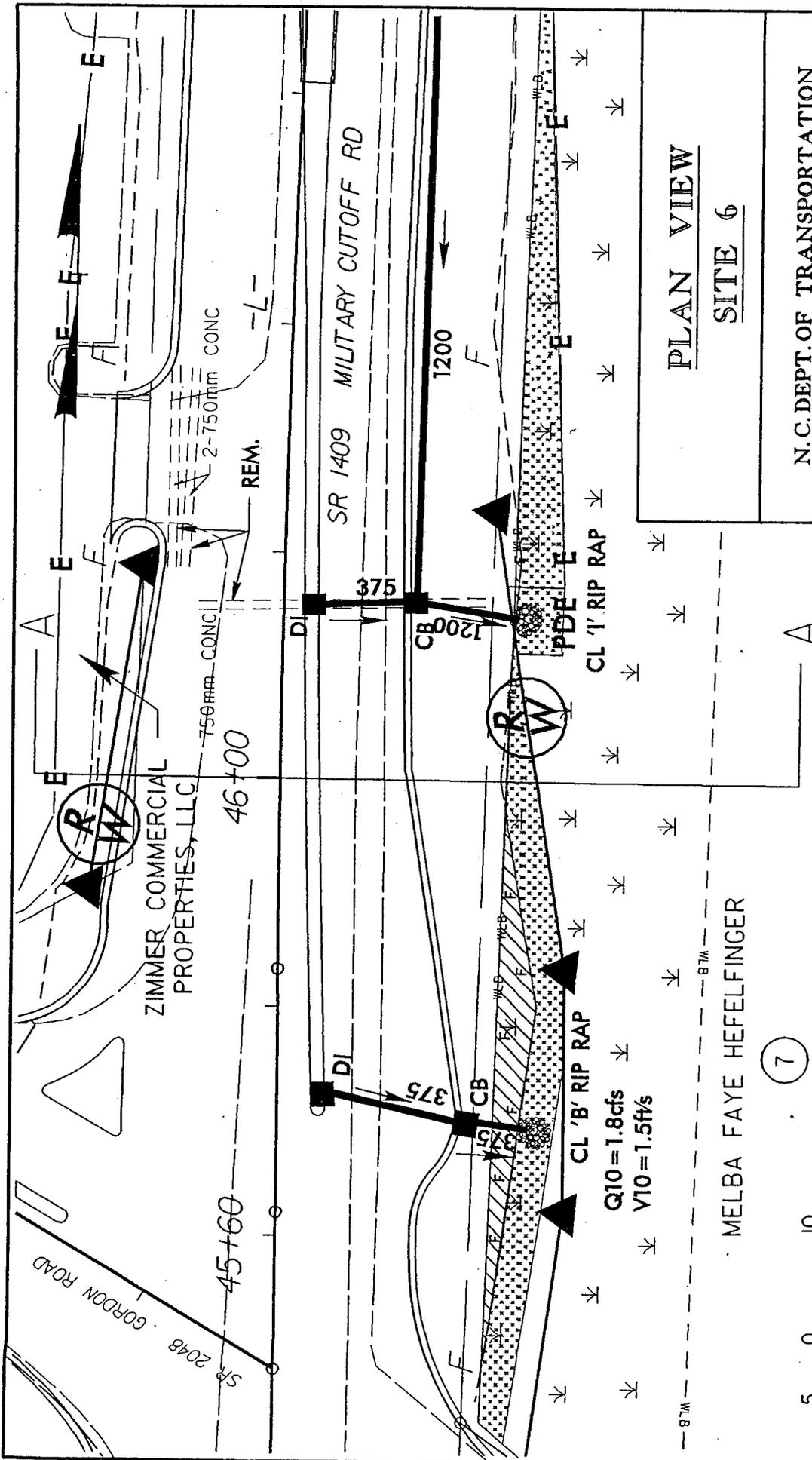
N. C. DEPT. OF TRANSPORTATION
DIVISION OF HIGHWAYS

NEW HANOVER COUNTY

PROJECT 34857.1.1 - U-2734

MILITARY CUT-OFF ROAD
IN WILMINGTON, NC

SHEET 24 OF 34 9/03



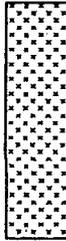
PLAN VIEW
SITE 6

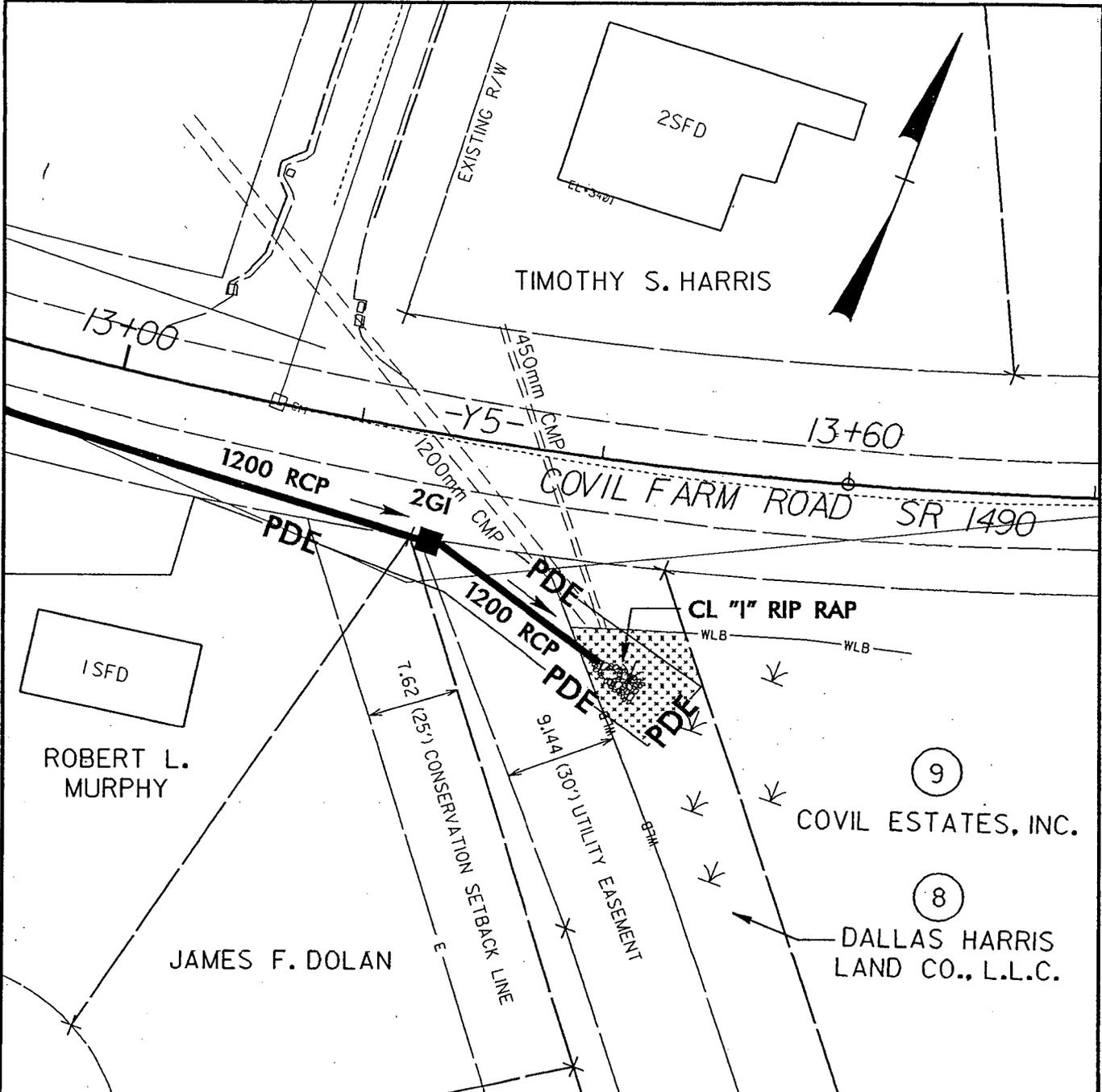
N.C. DEPT. OF TRANSPORTATION
DIVISION OF HIGHWAYS
NEW HANOVER COUNTY

PROJECT: 34857.1.1 - U-2734
MILITARY CUT-OFF ROAD
IN WILMINGTON, NC

SHEET 29 OF 34 9/03

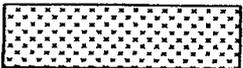
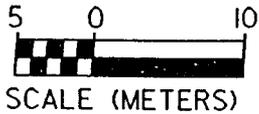


-  DENOTES FILL IN WETLAND
-  DENOTES MECHANIZED CLEARING



PLAN VIEW
SITE 7

N.C. DEPT. OF TRANSPORTATION
DIVISION OF HIGHWAYS
NEW HANOVER COUNTY
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MILITARY CUT-OFF ROAD
IN WILMINGTON, NC



DENOTES
MECHANIZED
CLEARING