



US Army Corps
Of Engineers
Wilmington District

PUBLIC NOTICE

Issue Date: September 23, 2005
Comment Deadline: October 24, 2005
Corps Action ID #: 200500470

All interested parties are hereby advised that the Wilmington District, Corps of Engineers (Corps) has received an application for work within jurisdictional waters of the United States. Specific plans and location information are described below and shown on the attached plans. This Public Notice and all attached plans are also available on the Wilmington District Web Site at www.saw.usace.army.mil/wetlands

Applicant: Terry and Katherine McKnight
4427 Ferncreek Drive
Fayetteville, North Carolina 28314

AGENT (if applicable): J.H. Carter III
Dr. J.H. Carter III & Associates, Inc.
515 F Midland Road
Southern Pines, North Carolina 28388

Authority

The Corps will evaluate this application and decide whether to issue, conditionally issue, or deny the proposed work pursuant to applicable procedures of Section 404 of the Clean Water Act.

Location

Project site is located adjacent to Buckhead Creek, on Lot 205, at 4427 Ferncreek Drive, in Buckhead Subdivision, off Raeford Road, in Fayetteville, Cumberland County, North Carolina. (35.0541 N, 78.9524 W) (Attachment A)

Existing Site Conditions

Lot 205 is the applicant's primary residence. It is approximately 0.3 acres in size with the rear fourth of the lot within the Buckhead Creek Floodway Easement. (Attachment B)

Applicant's Stated Purpose

The applicant proposes keeping 0.036 acres of unauthorized wetland fill for the development of a backyard for a single-family residential house.

Project Description

The property owners are currently in violation of Section 301 of the Clean Water Act (33 USC 1311) for the unauthorized discharge of 0.036 acres of fill into wetlands for the creation of a backyard.

The fill is a violation of the conditions of a Nationwide Permit 26 issued by our office to the original subdivision owner/developer Dohn Broadwell, on December 31, 1997. This permit authorized the discharge of fill material into 0.9 acres of wetlands for the construction of single-family residences on certain wetland lots in Buckhead Subdivision. Of the 0.9 acres of authorized wetland fill, 0.13 acres was designated for lots 205 and 206 in order to provide upland area adequate for the construction of a single-family residence. To mitigate for wetland impacts authorized by this Nationwide Permit, Mr. Broadwell was required to place a Deed Notification on certain lots in Buckhead Subdivision Section Six, including the above referenced lots. The intention of this Deed Notification was to prevent future impacts to the remaining wetlands on site. Mr. Broadwell sold the property on February 18, 2002.

The property owners have applied for an After-the-Fact Individual Permit to keep the unauthorized fill. They have stated that a backyard is critical for the functionality of this lot as a family residence. They are willing to mitigate in order to leave the fill in place.

Other Required Authorizations

This notice and all applicable application materials are being forwarded to the appropriate State agencies for review. The Corps will generally not make a final permit decision until the North Carolina Division of Water Quality (NCDWQ) issues, denies, or waives State certification required by Section 401 of the Clean Water Act (PL 92-500). The receipt of the application and this public notice in the NCDWQ Central Office in Raleigh serves as application to the NCDWQ for certification. A waiver will be deemed to occur if the NCDWQ fails to act on this request for certification within sixty days of the date of the receipt of this notice in the NCDWQ Central Office. Additional information regarding the Clean Water Act certification may be reviewed at the NCDWQ Central Office, 401 Oversight and Express Permits Unit, 2321 Crabtree Boulevard, Raleigh, North Carolina 27604-2260. All persons desiring to make comments regarding the application for certification under Section 401 of the Clean Water Act should do so in writing delivered to the North Carolina Division of Water Quality (NCDWQ), 2321 Crabtree Boulevard, Suite 250, Raleigh, North Carolina 27609-2260 Attention: Ms Cyndi Karoly by October 17, 2005.

Essential Fish Habitat

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

Cultural Resources

The Corps has consulted the latest published version of the National Register of Historic Places and is not aware that any registered properties, or properties listed as being eligible for inclusion therein are located within the project area or will be affected by the proposed work. Presently, unknown archeological, scientific, prehistoric, or historical data may be located within the project area and/or could be affected by the proposed work.

Endangered Species

The Corps has reviewed the project area, examined all information provided by the applicant and consulted the latest North Carolina Natural Heritage Database. Based on available information, the Corps has determined pursuant to the Endangered Species Act of 1973, that the proposed project will have no effect on federally listed endangered or threatened species or their formally designated critical habitat.

Evaluation

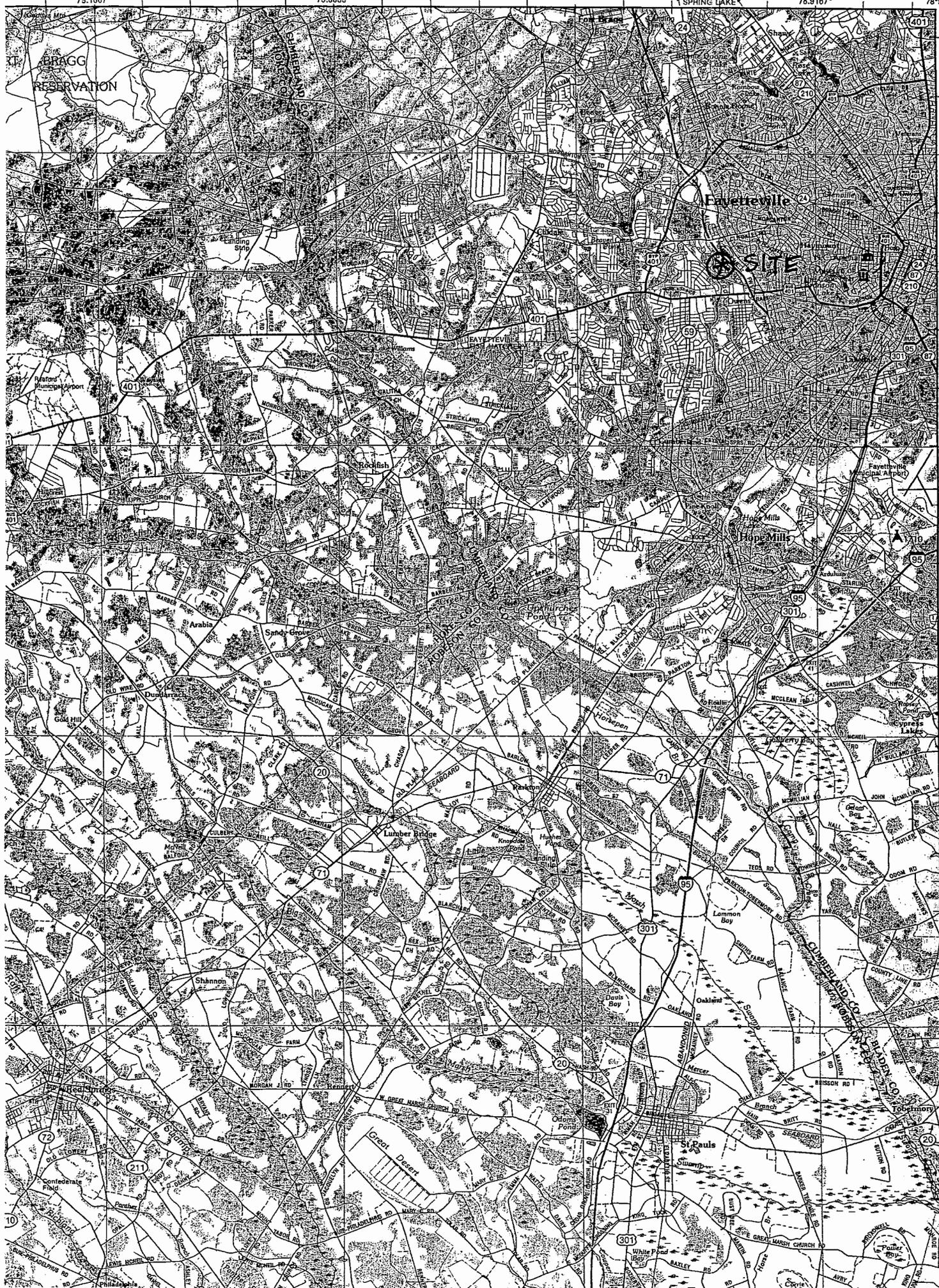
The decision whether to issue a permit will be based on an evaluation of the probable impacts, including cumulative impacts, of the proposed activity on the public interest. That decision will reflect the national concern for both protection and utilization of important resources. The benefit which reasonably may be expected to accrue from the proposal must be balanced against its reasonably foreseeable detriments. All factors which may be relevant to the proposal 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 (in accordance with Executive Order 11988), land use, navigation, shoreline 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 discharge of dredged or fill materials in waters of the United States, the evaluation of the impact of the activity on the public interest will include application of the Environmental Protection Agency's 404(b)(1) guidelines.

Commenting Information

The Corps is soliciting comments from the public; Federal, State and local agencies and officials, including any consolidated State Viewpoint or written position of the Governor; Indian Tribes and other interested parties in order to consider and evaluate the impacts of this proposed activity. Any comments received will be considered by the Corps to determine 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 determine the need for a public hearing and to determine the overall public interest of the proposed activity.

Any person may request, in writing, within the comment period specified in this notice, that a public hearing be held to consider the application. Requests for public hearings shall state, with particularity, the reasons for holding a public hearing. Requests for a public hearing shall be granted, unless the District Engineer determines that the issues raised are insubstantial or there is otherwise no valid interest to be served by a hearing.

Written comments pertinent to the proposed work, as outlined above, will be received by the Corps of Engineers, Wilmington District, until 5pm, October 24, 2005. Comments should be submitted to Lillette Granade at (910) 251-4829.



35°05'00"
35.0833°

A

35°00'00"
35.0000°

B

34°55'00"
34.9167°

Continue on Page 74

34°50'00"
34.8333°

Attachment A (1 of 3)

Yahoo! My Yahoo! Mail

Search the Web

Search

YAHOO! LOCAL Sign In
Maps New User? [Sign Up](#)

[Maps Home](#) - [Help](#)

Yahoo! Maps - Fayetteville, NC 28314-2545

<< [Back to Map](#)

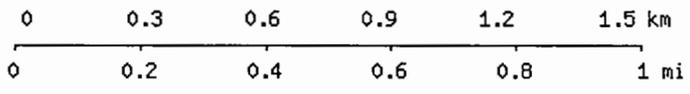
★ 4427 Ferncreek Dr Fayetteville, NC 28314-2545



When using any driving directions or map, it's a good idea to do a reality check and make sure the road still exists, watch out for construction, and follow all traffic safety precautions. This is only to be used as an aid in planning.

Copyright © 2005 Yahoo! Inc. All rights reserved.
[Privacy Policy](#) - [Terms of Service](#) - [Copyright Policy](#) - [Yahoo! Maps Terms of Use](#) - [Help](#) - [Ad Feedback](#)

Attachment A (2 of 3)

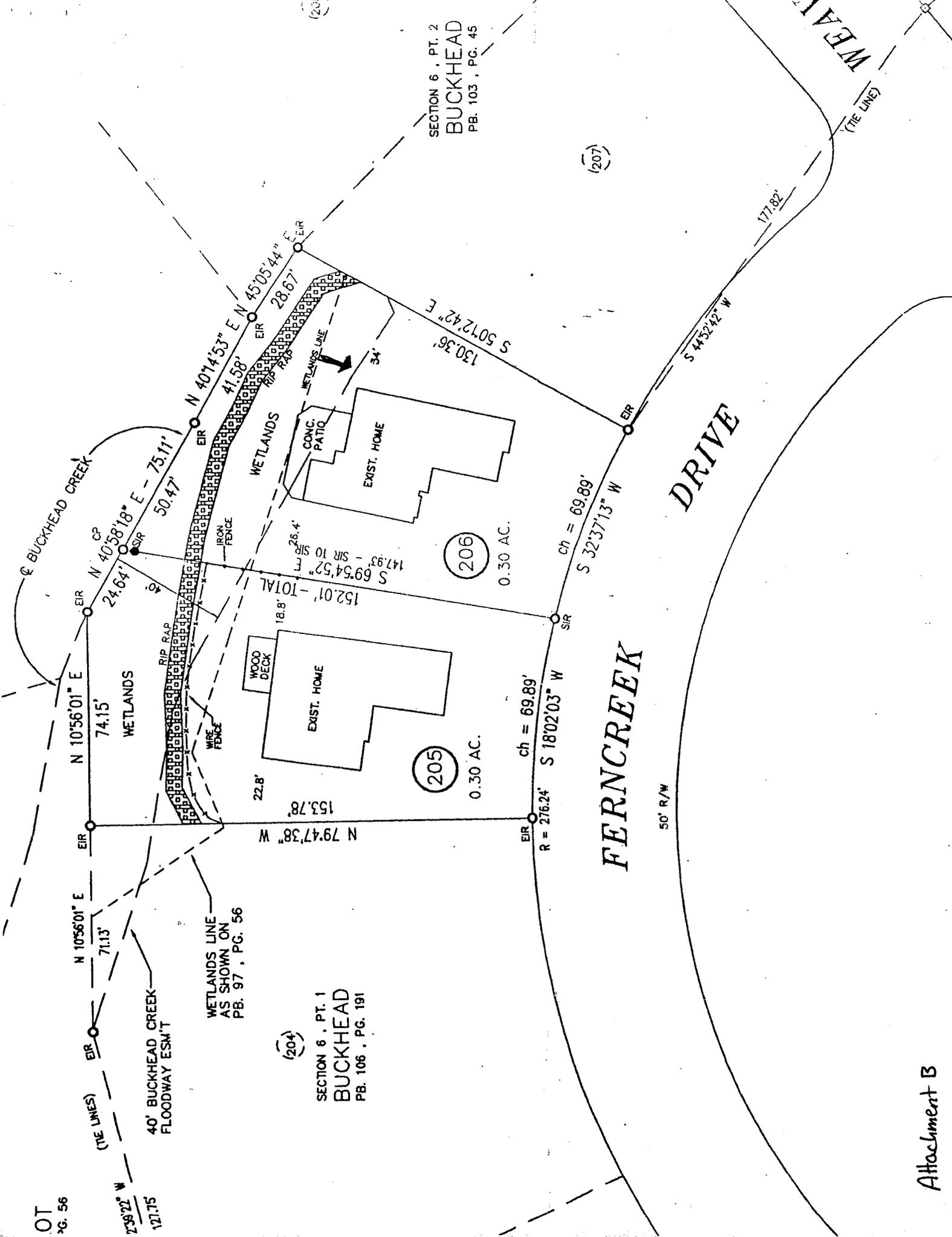


Map center is 35.0541°N, 78.9524°W (WGS84/NAD83)
Fayetteville quadrangle
 Projection is UTM Zone 17 NAD83 Datum

M*
 G
 M=-8.455
 G=1.177

Attachment A (3 of 3)

OT
PG. 56



SECTION 6, PT. 2
BUCKHEAD
PB. 103, PG. 45

SECTION 6, PT. 1
BUCKHEAD
PB. 106, PG. 191

DRIVE

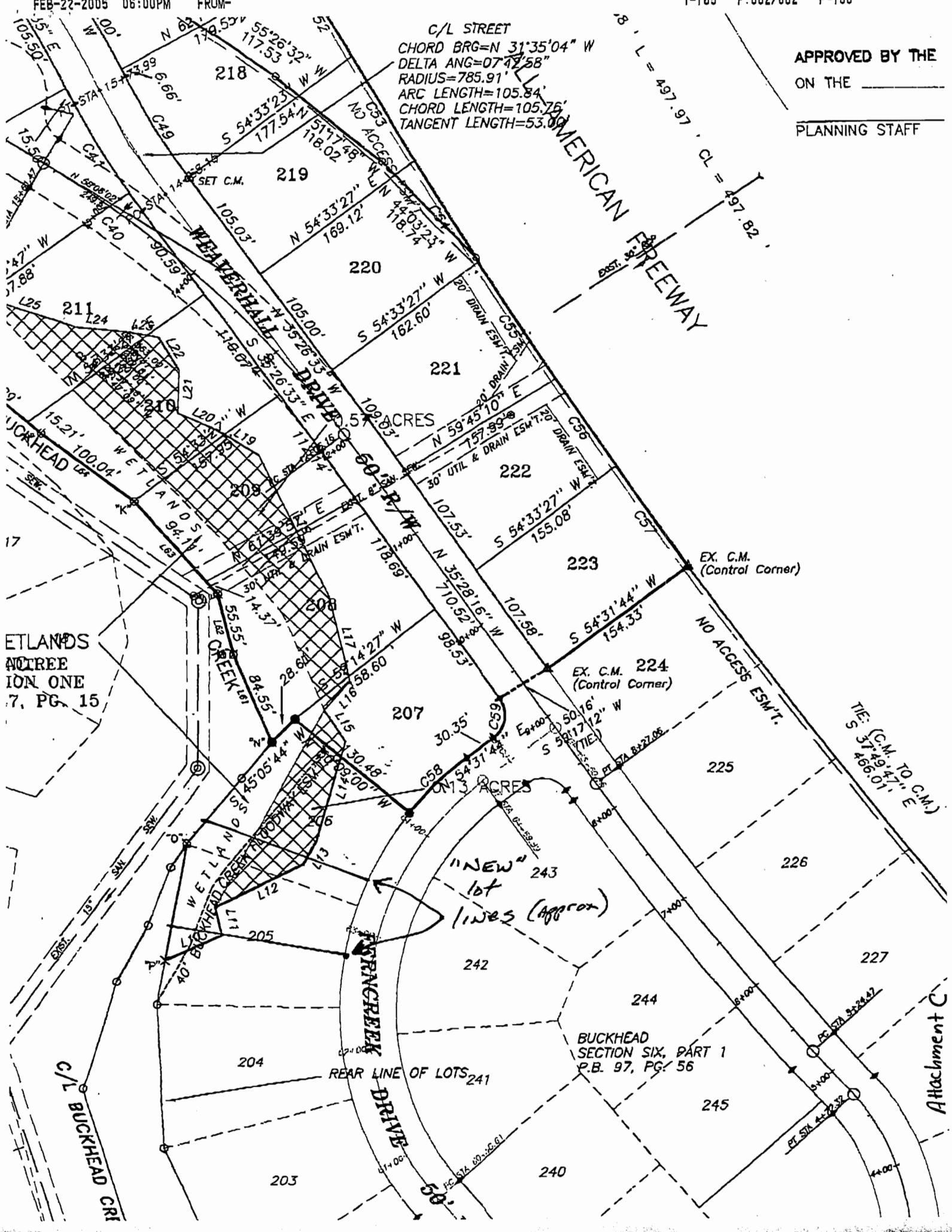
FERNCREEK

Attachment B

APPROVED BY THE
ON THE _____
PLANNING STAFF

C/L STREET
CHORD BRG=N 31°35'04" W
DELTA ANG=07°48'58"
RADIUS=785.91'
ARC LENGTH=105.84'
CHORD LENGTH=105.76'
TANGENT LENGTH=53.00'

AMERICAN FREEWAY



ETLANDS
NOT REE
ION ONE
7, PG. 15

"NEW"
lot
lines (approx)

BUCKHEAD
SECTION SIX, PART 1
P.B. 97, PG. 56

Attachment C