



US Army Corps
Of Engineers
Wilmington District

PUBLIC NOTICE

APPLICATION MODIFICATION

Issue Date: May 2, 2007
Comment Deadline: May 17, 2007
Corps Action ID #: SAW-2005-20100-292

The Wilmington District, Corps of Engineers (Corps) has received a MODIFIED application from Mercury Development, seeking Department of the Army authorization to permanently impact 3.83-acres of jurisdictional wetlands, 2,642 linear feet of streams having important aquatic functions, and 0.16-acre of open water; and to temporary impact 1.8-acres of jurisdictional wetlands and 668 linear feet of streams having important aquatic functions associated with the construction of Wendell Falls in Wendell, Wake County, North Carolina.

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: Mercury Development
Attn: Mr. Greg Ferguson
5660 Six Forks Road, Suite 202
Raleigh, North Carolina 27609

Agent: Withers and Ravenel
Attn: Mr. Todd Preuninger
111 MacKenan Drive
Cary, NC 27511

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

The proposed site for Wendell Falls is approximately 1,300-acres of contiguous land located on the west side of Martin Pond Road (SR 2503), 2,600 feet north of the intersection of Martin Pond Road and Poole Road (SR 1007) in Wendell, Wake County, North Carolina (Latitude 35.7694 and Longitude 78.4221). The site contains unnamed

stream channels and adjacent wetlands which drain to Mark's Creek, a tributary in the Neuse River Basin (Hydrologic Unit Code 03020201).

Existing Site Conditions

The existing site conditions for the proposed development contains approximately 195-acres of wetlands and 6.6 miles of stream channels. The wetlands are comprised of headwater forest wetlands, naturalized beaver impoundments, wetland seeps, and freshwater marshes. Vegetation within these wetlands is comprised of red maple (*Acer rubrum*), tulip poplar (*Liriodendron tulipifera*), sweetgum (*Liquidambar styraciflua*), tag alder (*Alnus serrulata*), netted chain fern (*Woodwardia areolata*), possum-haw viburnum (*Viburnum nudum*), lizard's tail (*Saururus cernuus*), and greenbriar (*Smilax* spp.). The remaining upland areas are comprised of agricultural fields, pastures, and woodlands. Vegetation within these areas is comprised of loblolly pine (*Pinus taeda*), tulip poplar, black cherry (*Prunus serotina*), sourwood (*Oxydendrum arboreum*), dog fennel (*Eupatorium capillifolium*), and other typical species. The U.S. Army Corps of Engineers (Corps) has conducted site visits and has field verified the aquatic features listed above.

Applicant's Stated Purpose

The project is to provide a variety of land uses including residential, commercial, office, institutional, and park features. This mix of land use represents an attempt to achieve a balance of community goals and market dynamics for the Wendell area and Eastern Wake County. Increased transportation demands, within and around the project site, would be accommodated by a proposed interchange with U.S. 64/264 and construction of a major thoroughfare.

Project Description

On October 13, 2006, the Corps issued a public notice for Mercury Developments' proposal to impact waters of the United States for the construction of Wendell Falls located on the west side of Martin Pond Road (SR 2503), 2,600 feet north of the intersection of Martin Pond Road and Poole Road (SR 1007) in Wendell, Wake County, North Carolina. As part of the public notice, the proposed activity would involve the construction of a mixed use development including all necessary utility and transportation features.

Subsequent to the public notice, the applicant altered the development plans which resulted in an overall increase in aquatic impacts. Therefore, Mercury Development has revised their application to reflect the additional stream and wetland impacts. The new impacts are identified within spheres on the attached inset maps. The following revised description of the work is taken from data provided by the applicant.

The proposed development would construct 4,000 residential dwelling units and approximately 450,000 square feet of retail and office space. Nearly 160 acres of land

along the Mark's Creek corridor and Lake Myra will be dedicated to Wake County for the creation of a park.

Originally, the North Carolina Department of Transportation (NCDOT) proposed an interchange with U.S. 64/264 at mile marker 427 and Knightdale Eagle Rock Road (SR 2501/2502), but has no immediate plans to construct this interchange. Therefore, the applicant has incorporated this interchange into the project to handle the projected traffic flows. The ramps, loops and Y-line for the proposed interchange would be confined by the existing right-of-way that was previously acquired by the NCDOT. The typical section for the deceleration ramp of the proposed intersection leading from U.S. 64/264 is a 4-foot paved shoulder section with a 16-foot wide lane. The acceleration ramp leading from SR 2501/2502 shows a curb-and-gutter typical section with a 20-foot lane and 4-foot paved shoulders. The Wendell Falls thoroughfare would leave the interchange and cross Mark's Creek via a proposed bridge as it enters the property.

The proposed thoroughfare would begin at the proposed interchange and terminate at the intersection of Richardson Road with Wiley Oaks Road, just west of Poole Road. Maps, showing each crossing are available upon request. Total permanent impacts are now assessed at 3.83-acres of jurisdictional wetlands, 2,642 linear feet of streams having important aquatic functions, and 0.16-acre of open water; and temporary impacts are now 1.8-acres of jurisdictional wetlands and 668 linear feet of streams having important aquatic functions.

The applicant is currently developing a compensatory mitigation package containing possible on-site preservation and payment to the North Carolina Ecosystem Enhancement Program (NCEEP) to mitigate for unavoidable impacts to aquatic resources.

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), 1650 Mail Service Center, Raleigh, North Carolina 27699-1650 Attention: Ms Cyndi Karoly by May 17, 2007.

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. However, two areas (the Richardson Farm and cemetery) that might contain archeological resources are located near the project site. It has not yet been determined if these areas are within the permit area for this project; however, the Corps will coordinate with the State Historical Preservation Office regarding potential effects. 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 of Engineers is soliciting comments from the public; Federal, State and local agencies and officials, including any consolidate 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 of Engineers 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.

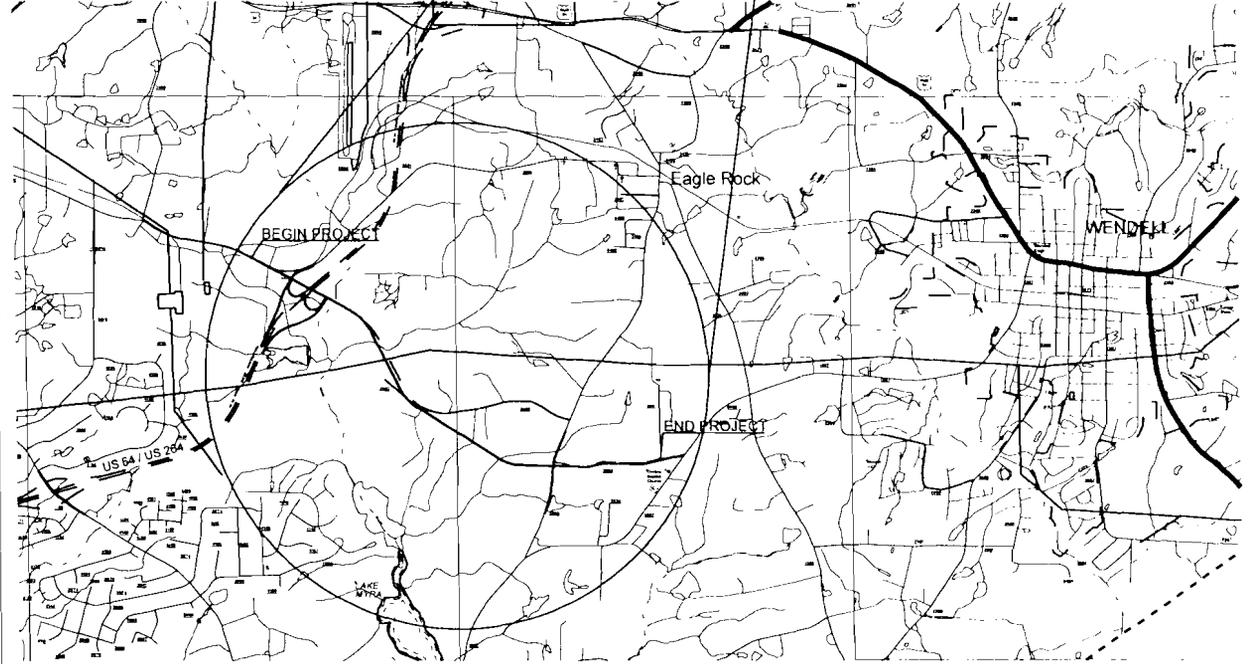
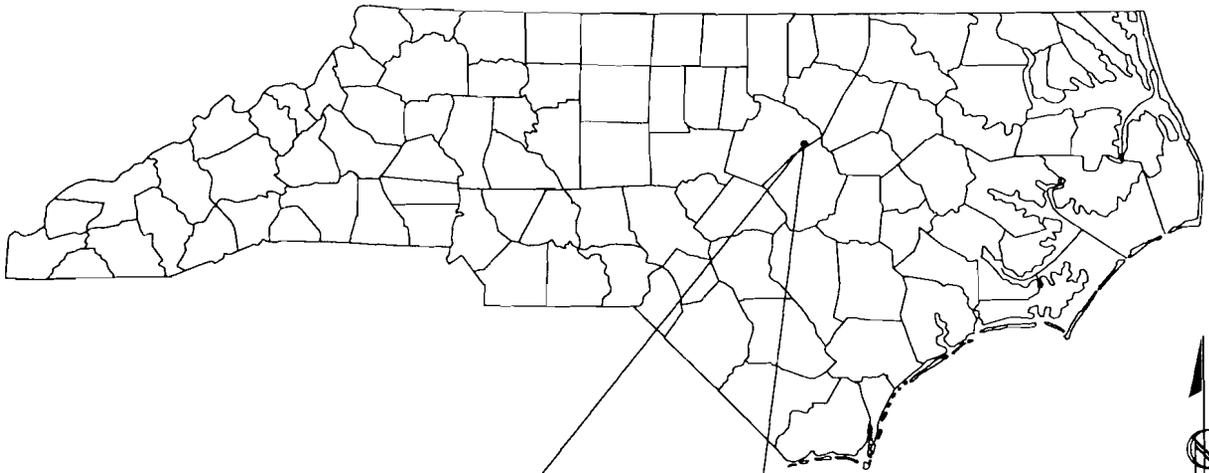
In addition, any person may request, in writing, within the comment period specified in this notice, that an additional public hearing be held to consider the application. Requests for public hearings shall state, with particularity, the reasons for holding a public hearing. Requests for a public hearing 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, May 17, 2007. Comments should be submitted to Mr. Monte Matthews, Raleigh Regulatory Field Office, 6508 Falls of Neuse Road, Suite 120, Raleigh, North Carolina, 27615.

APR 26 2007

RALEIGH REGULATORY FIELD OFFICE

NORTH CAROLINA



VICINITY
MAP

**WENDELL FALLS
DEVELOPMENT, LLC
WAKE COUNTY
PROJECT: LBG OR1012
WENDELL FALLS PARKWAY
FROM SR 2501
TO SR 1007**

04/23/07

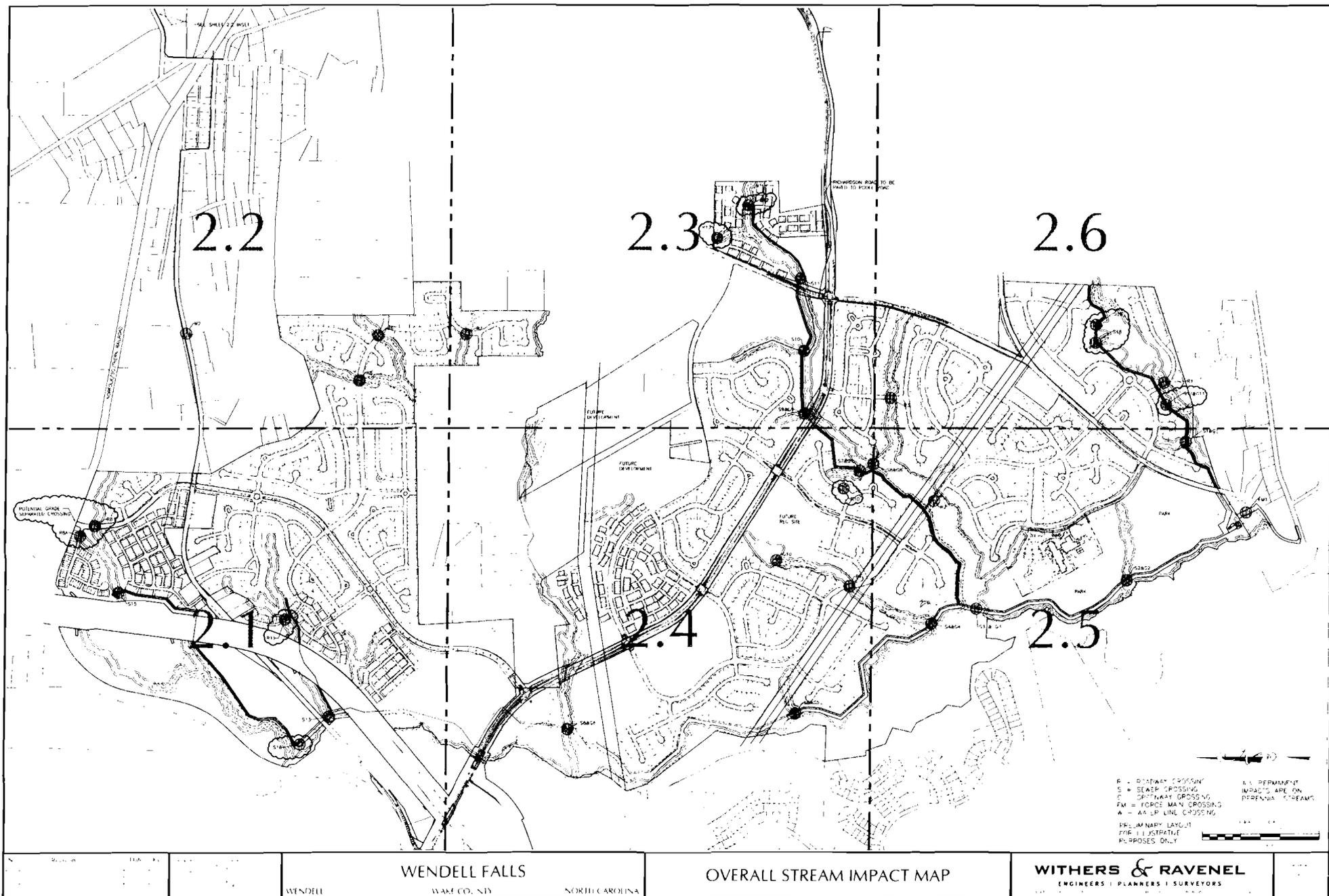
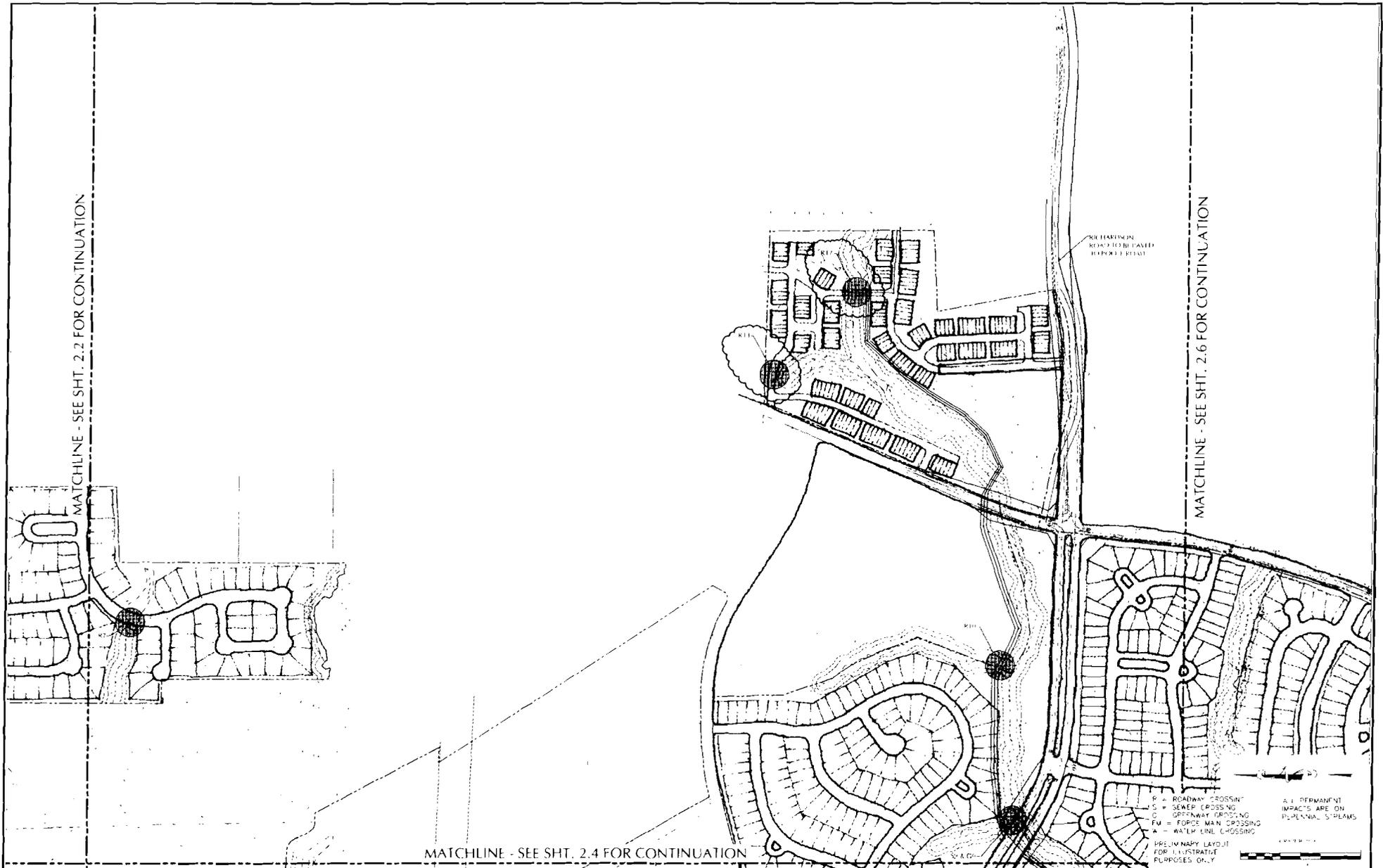


Figure 2 of 15



Figure 4 of 15

Inset 2.2



WENDELL FALLS

WAKE COUNTY NORTH CAROLINA

OVERALL STREAM IMPACT MAP

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ENGINEERS | PLANNERS | SURVEYORS

2.3

Figure 5 of 15

Inset 2.3

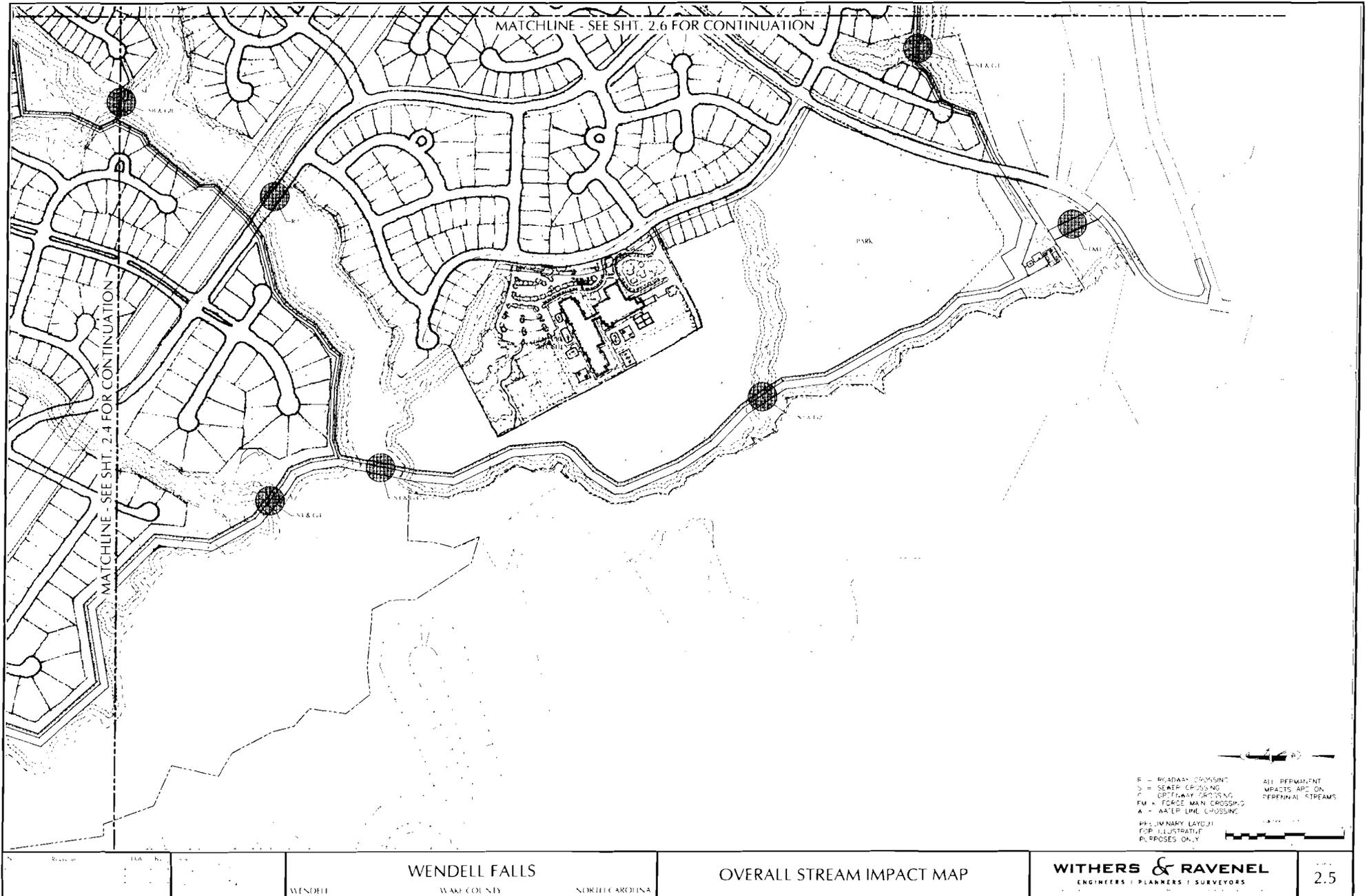


Figure 7 of 15

Inset 2.5

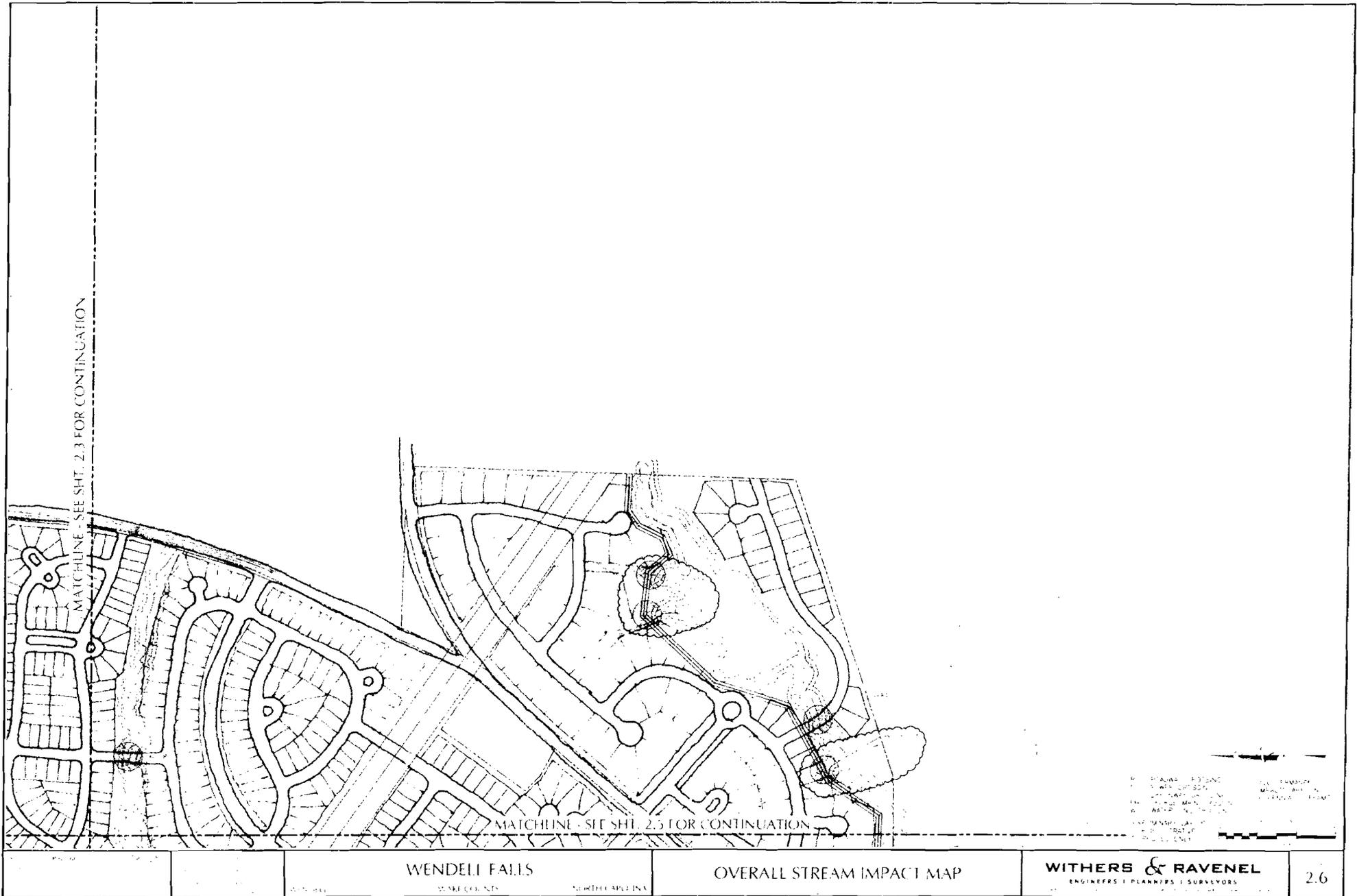


Figure 8 of 15

Inset 2.6

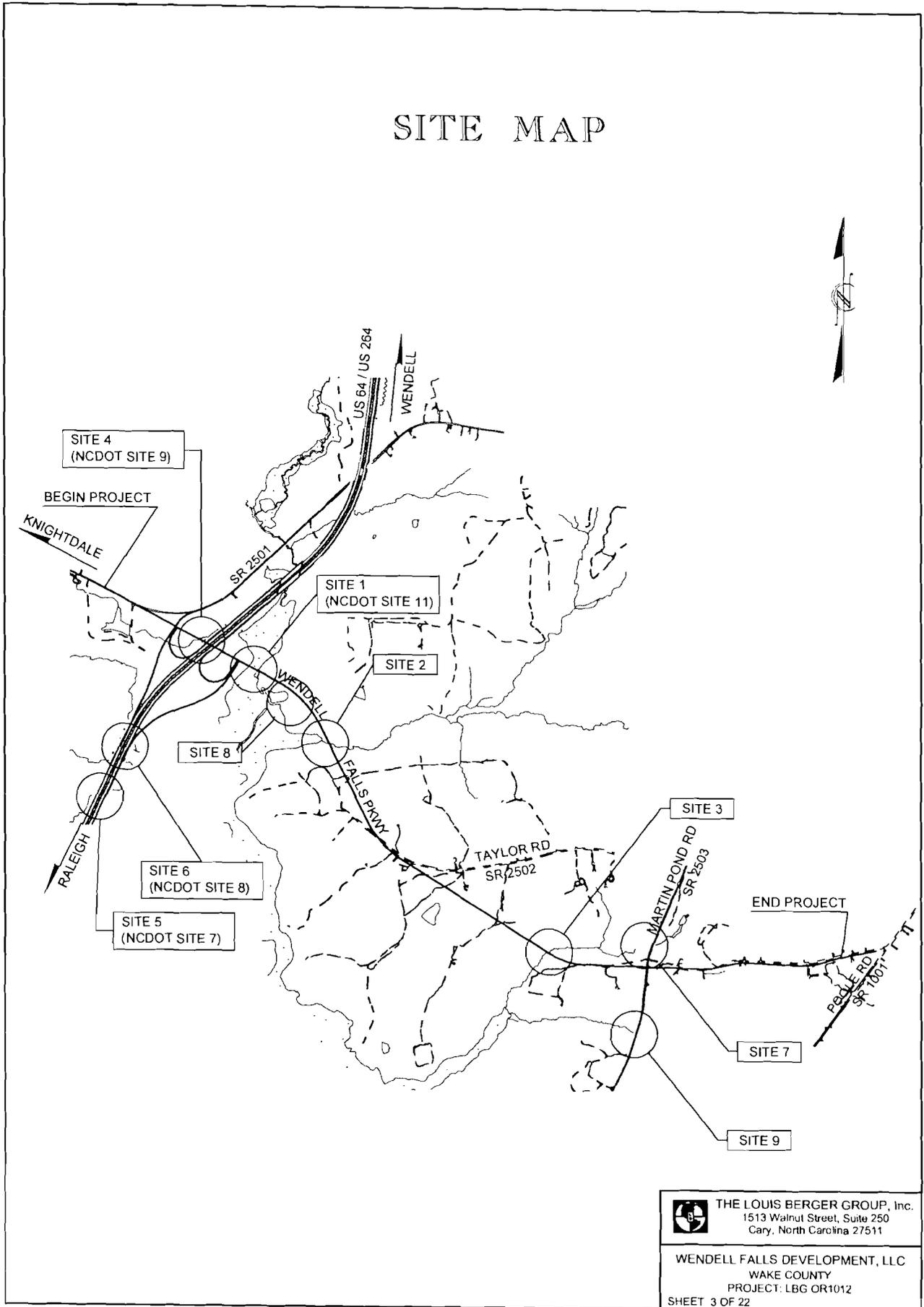


Figure 9 of 15

Bridge - Plan View

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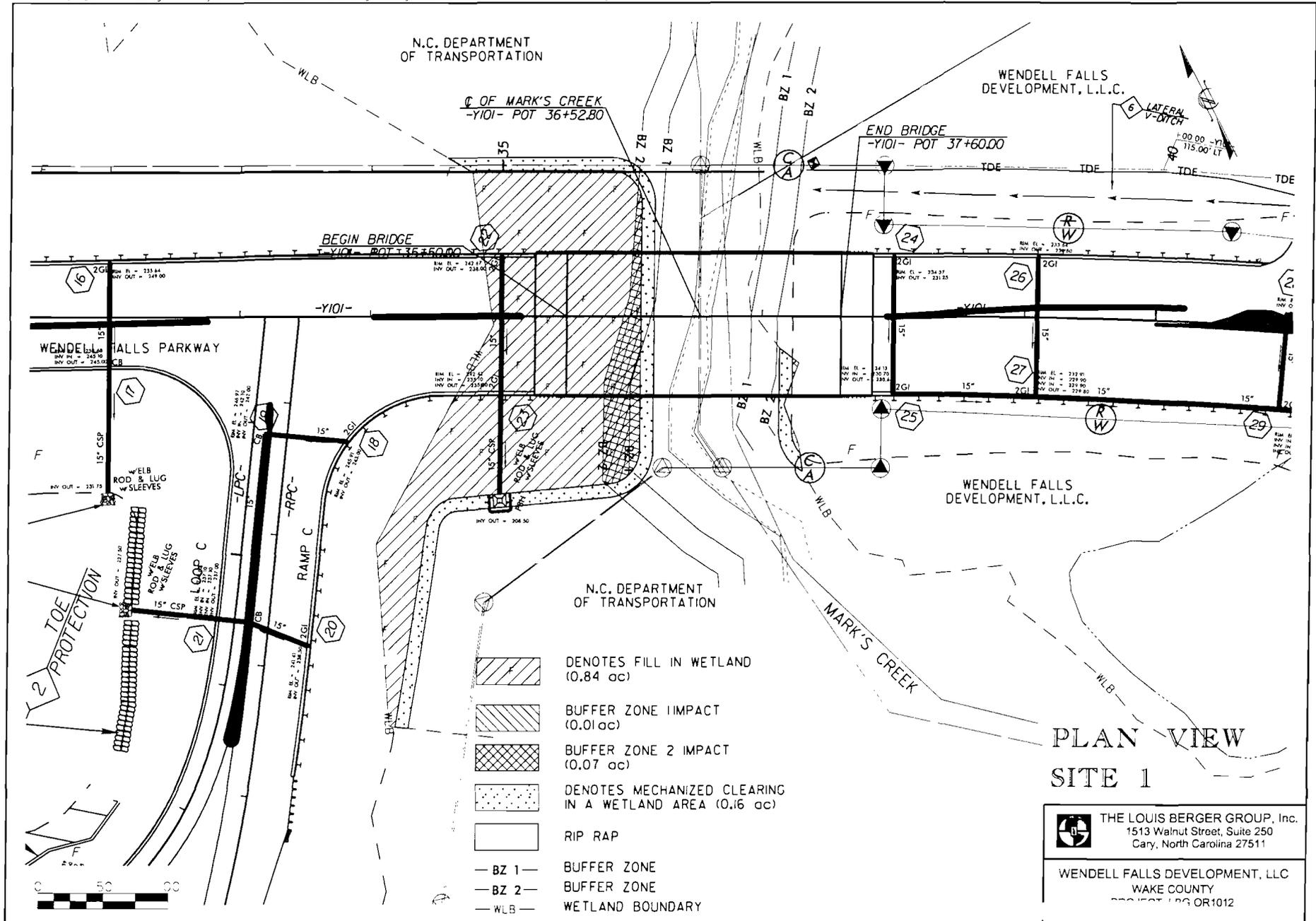


Figure 10 of 15

Bridge - Profile

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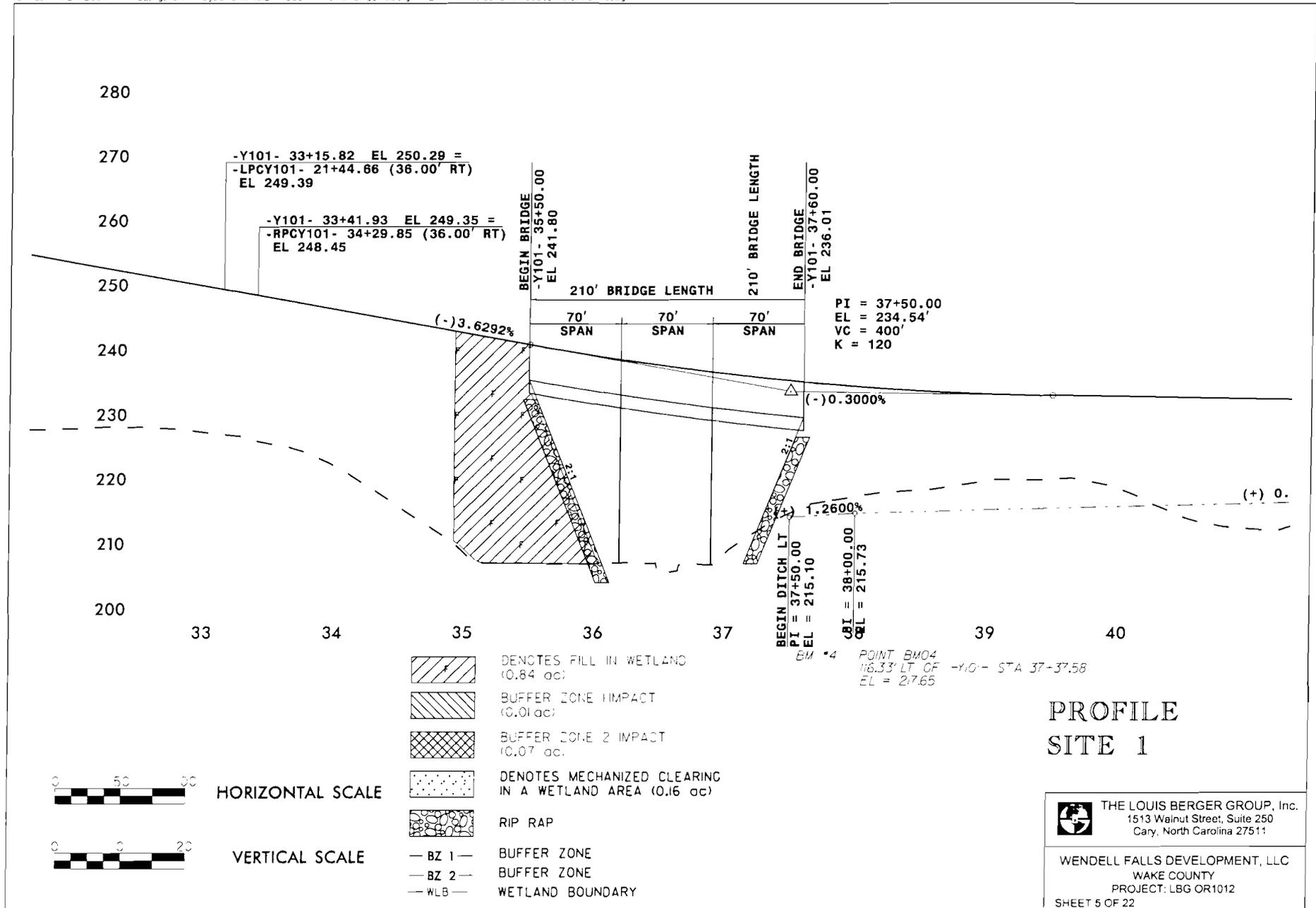


Figure 11 of 15

Typical Culvert - Plan View

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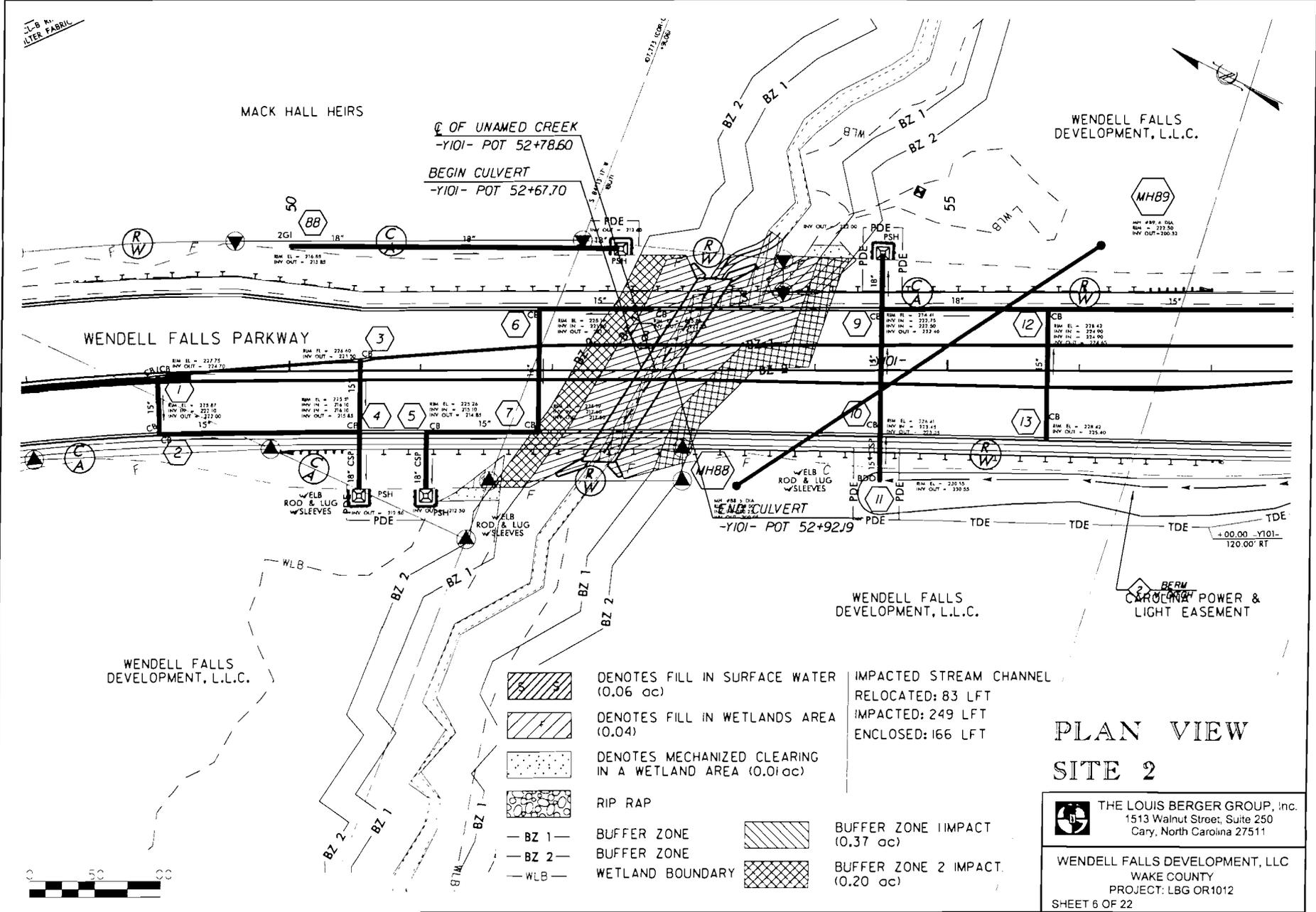


Figure 12 of 15

Typical Culvert - Profile

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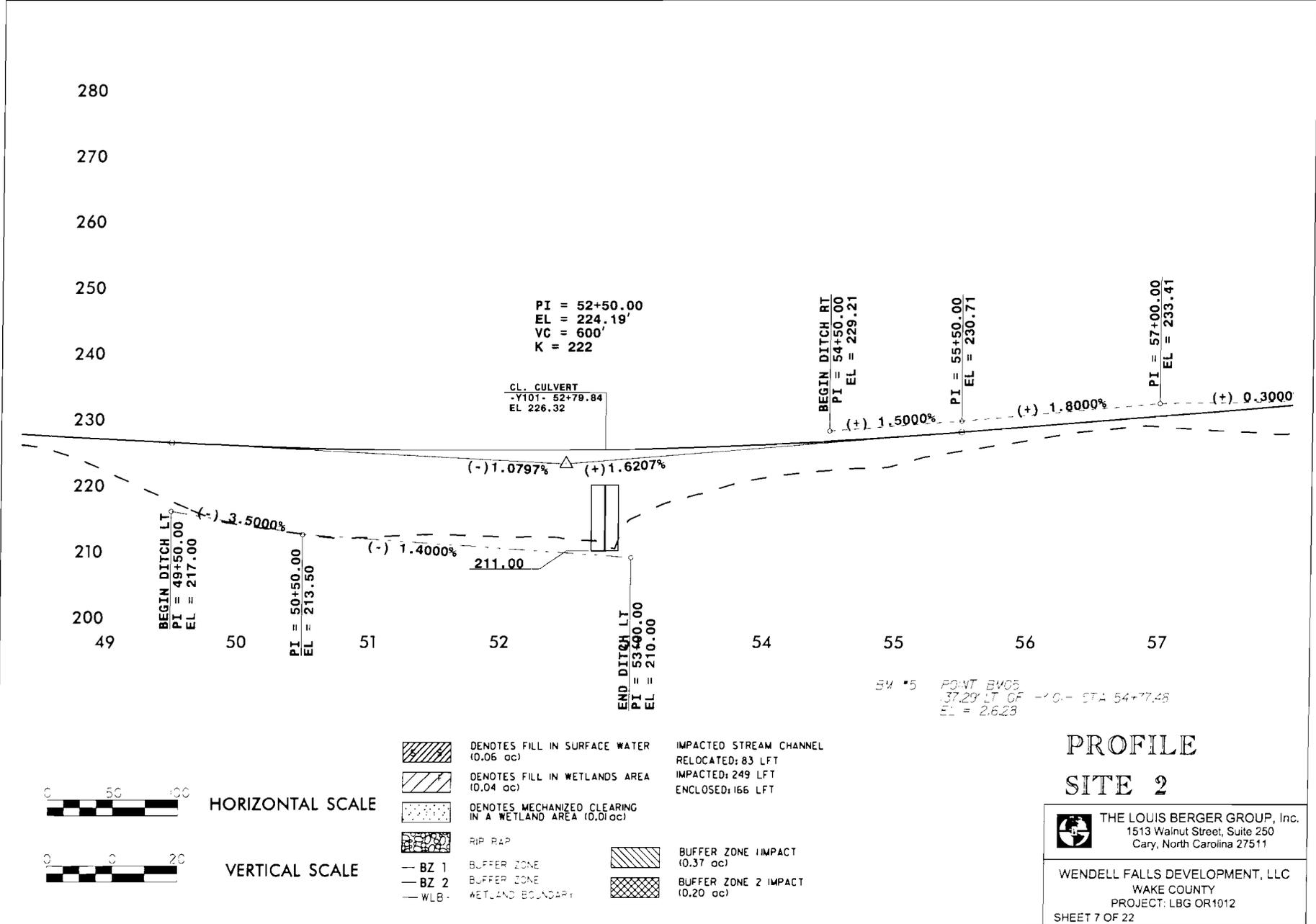


Figure 13 of 15

Typical Interchange Loop

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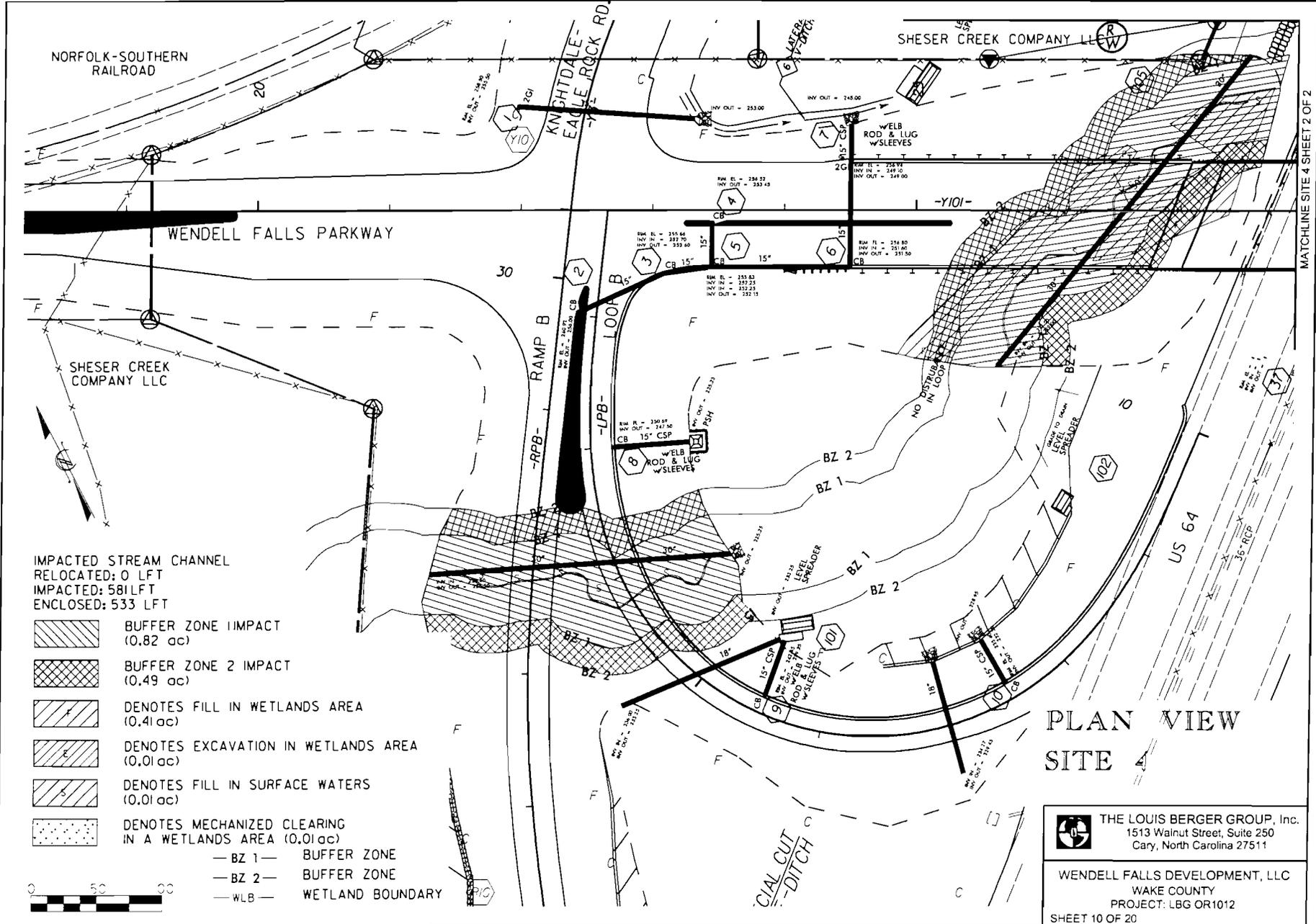
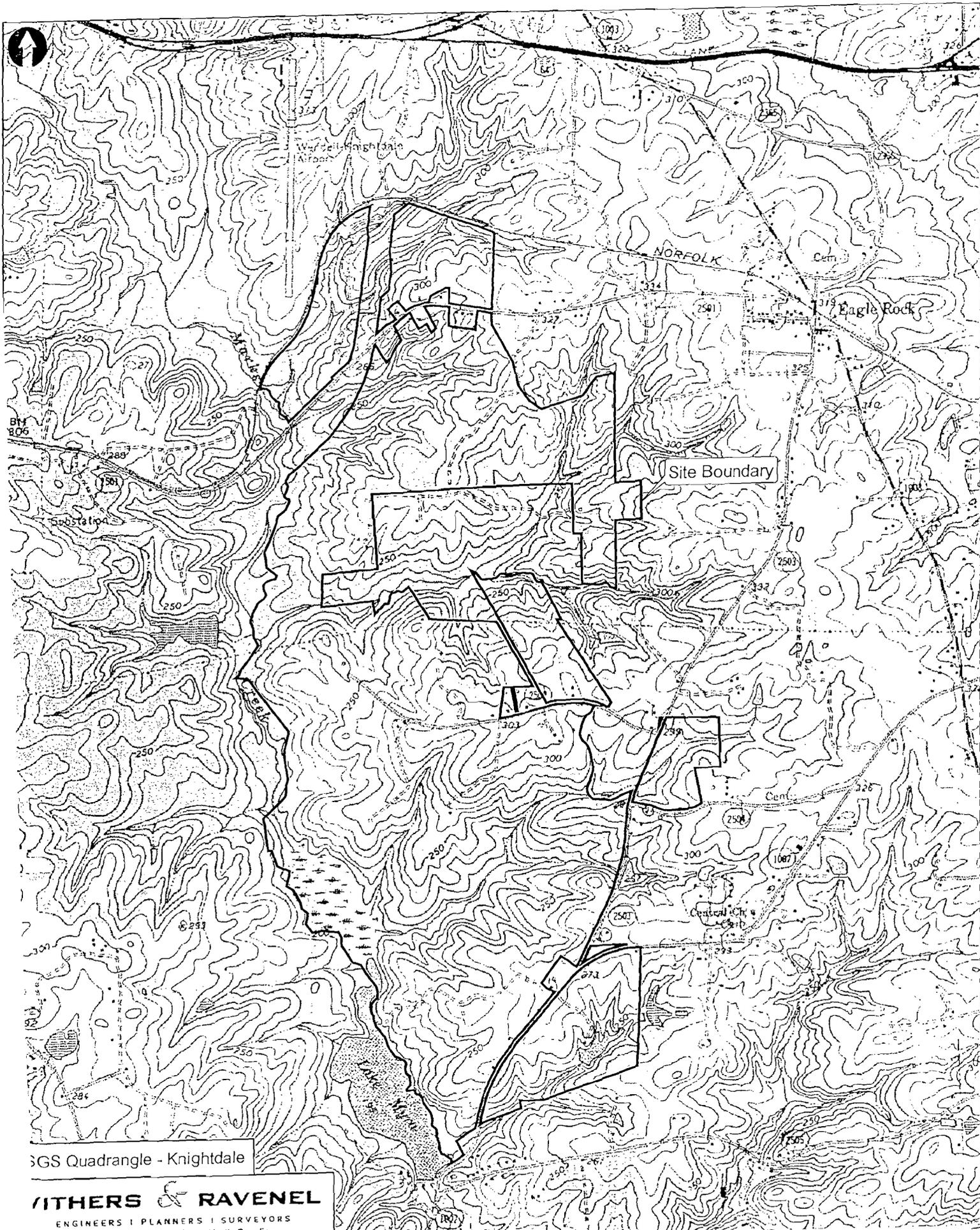


Figure 14 of 15



USGS Quadrangle - Knightdale

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