



US Army Corps  
Of Engineers  
Wilmington District

# PUBLIC NOTICE

Issue Date: February 23, 2007  
Comment Deadline: March 26, 2007  
Corps Action ID #: SAW 2007 00656 234

The Wilmington District, Corps of Engineers (Corps) has received an application from Joseph P. Tanneberger seeking Department of the Army authorization to impact approximately 2.78 acres of wetlands and 773 linear feet of stream channels of the jurisdictional waters of Johnson Creek associated with the proposed construction of the Clemmons Town Center commercial / retail facilities located off of Lewisville-Clemmons Road northwest of the intersection with I-40, north of Clemmons, in Forsyth County, North Carolina. The project also includes temporary jurisdictional waters impacts of 12 linear feet of stream channels and 0.07 acre of wetlands associated with a sewer line connector.

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](http://www.saw.usace.army.mil/wetlands)

**Applicant:** Mr. Joseph P. Tanneberger  
101 West Worthington Ave., Suite 204  
Charlotte, NC 28203

**AGENT:** Mr. Matthew O'Brien  
Environmental Services, Inc.  
3661 Alamance Road  
Burlington, NC 27215

## 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 project site is located off of 2400 Lewisville-Clemmons Road northwest of the intersection with I-40, north of Clemmons, in Forsyth County, North Carolina. Coordinates (in decimal degrees) for the site are 36.0359010 north, 80.3891998 west.

The site is adjacent to Johnson Creek in the Yadkin River Basin (8-Digit Cataloging Unit 03040101).

### **Existing Site Conditions**

General land use in the vicinity of the proposed project property consists of existing commercial retail and restaurant businesses. The project impact area is an abandoned home residence. The house on the property has been demolished and two ponds on the property have had their dams breeched and the ponds drained. With the exception of the two drained ponds, the proposed project site is mostly forested with loblolly pine (*Pinus taeda*), red maple (*Acer rubrum*) and sweet gum (*Liquidambar styraciflua*) and understory vegetation consisting of Chinese privet (*Ligustrum sinense*) and Japanese honeysuckle (*Lonicera japonica*). One jurisdictional stream is present within the project site's boundaries, Johnson Creek. The stream channel has been degraded by the ponds and the recent draining of the ponds. The stream channel and adjacent wetlands to the stream channel also have been degraded by the surrounding urban and high density commercial land use. Household trash litters the greatly incised and unstable stream channel.

### **Applicant's Stated Purpose**

As stated by the applicant, the purpose of the project is to develop this tract for commercial retail operations. The site is located at a major interstate highway interchange in an area of rapid demographic growth and is zoned appropriately for the proposed purpose.

### **Project Description**

The applicant proposes the development of this tract for commercial retail operations. The site is located at a major interchange in an area of rapid demographic growth and is zoned appropriately for the proposed purpose. Two ponds located in the center of the tract have been breached and drained. These two pond basins have largely re-established as either stream channels with associated riparian wetlands or linear wetlands. The perennial stream channel originating just above one of the drained ponds flows southward at the base of the steep western slope before entering into an off-site downstream lake. Two draws east of the perennial stream channel have intermittent stream channels and/or linear wetlands which confluence with the perennial stream channel. With reference to the attached project plans the following proposed jurisdictional impacts associated with the project have been identified:

**Stream Impact #1** (531 linear feet of stream channel) and **Wetland Impact #4** (0.08 acre) are shown on *Sheet 5*. These impacts would result from fill and grading activities necessary for the construction of parking areas and building pads.

**Stream Impact #2** (139 linear feet of stream channel) is shown on *Sheet 6*. This impact would result from a culvert installation and grading for a road crossing necessary to access the southern portion of the tract. The proposed design incorporates headwalls, both upstream and down stream, and a riprap energy dissipater.

**Stream Impact #3** (103 linear feet of stream channel) and **Wetland Impact #3** (0.48 acre) are depicted on *Sheets 7 and 4*. These impacts would result from a culvert installation and grading for a road crossing necessary to access the western portion of the tract. The proposed design incorporates a downstream headwall and a riprap energy dissipater.

**Stream Impact #4** (12 linear feet of stream channel, temporary) and **Wetland Impact #5** (0.007 acre, temporary) are shown on *Sheet 8*. These impacts would result from installation of a sewer connector that is necessary to connect the proposed development to the area municipal wastewater system.

**Wetland Impact #1** (1.51 acres) is depicted on *Sheet 2*. This impact would result from fill and grading activities necessary for the construction of parking areas and building pads.

**Wetland Impact #2** (0.69 acre) is depicted on *Sheet 3*. This impact would result from excavation and grading impacts activities necessary for the construction of a stormwater management pond.

Total jurisdictional impacts associated with the proposed project total 2.78 acres of wetlands and 773 linear feet of stream channels. The project also includes temporary jurisdictional impacts of 12 linear feet of stream channels and 0.07 acre of wetlands associated with a sewer line connector.

The applicant did not propose any mitigation for the referenced impacts to the jurisdictional waters associated with the project.

### **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 March 19, 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 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 is not aware of the presence of species listed as threatened or endangered or their critical habitat formally designated pursuant to the Endangered Species Act of 1973 (ESA) within the project area. A final determination on the effects of the proposed project will be made upon additional review of the project and completion of any necessary biological assessment and/or consultation with the U.S. Fish and Wildlife Service."

## **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**

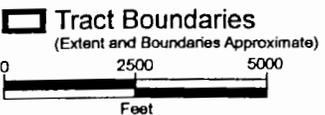
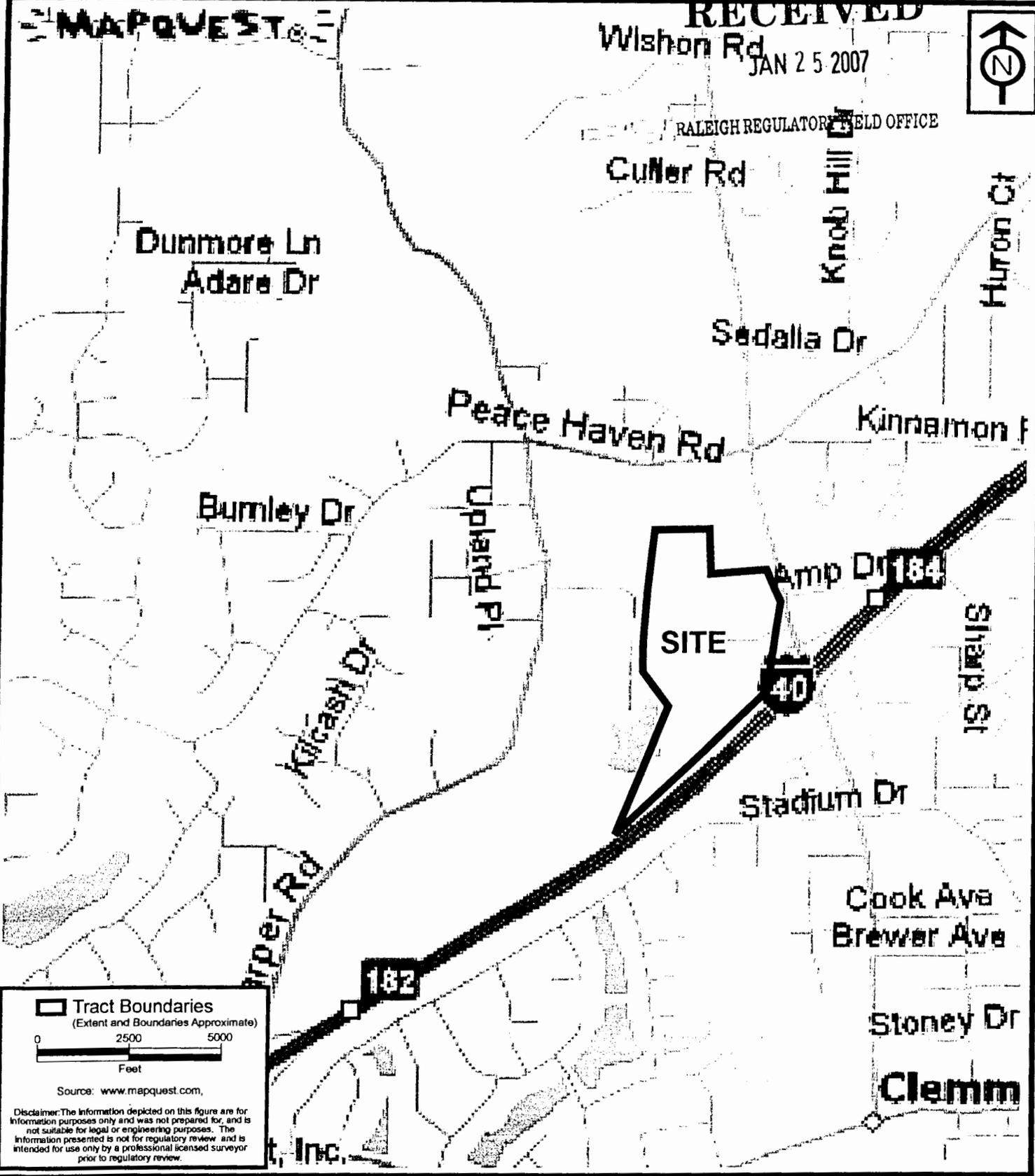
The Corps of Engineers is soliciting comments from the public: Federal, State and local agencies and officials, including any consolidate State Viewpoint or written position of the Governor; Indian Tribes and other interested parties in order to consider and evaluate the impacts of this proposed activity. 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.

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, March 26, 2007. Comments should be submitted to John Thomas, Raleigh Regulatory Field Office, 6508 Falls of the Neuse Road, Suite 120, Raleigh, NC 27615.



RALEIGH REGULATORY FIELD OFFICE



Source: www.mapquest.com

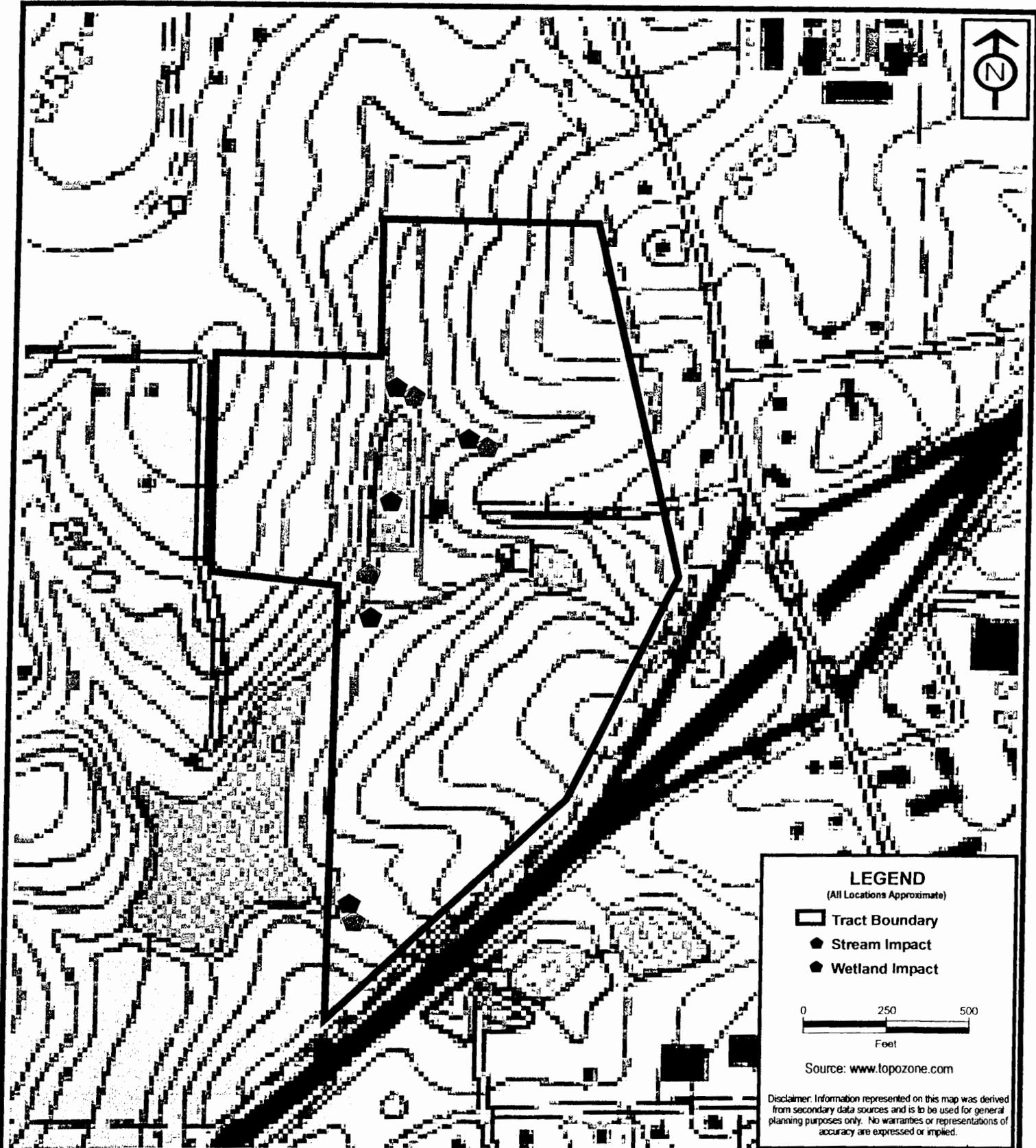
Disclaimer: The information depicted on this figure are for information purposes only and was not prepared for, and is not suitable for legal or engineering purposes. The information presented is not for regulatory review and is intended for use only by a professional licensed surveyor prior to regulatory review.



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Vicinity Depiction  
**Clemmons Tract**  
Clemmons, Forsyth County, North Carolina

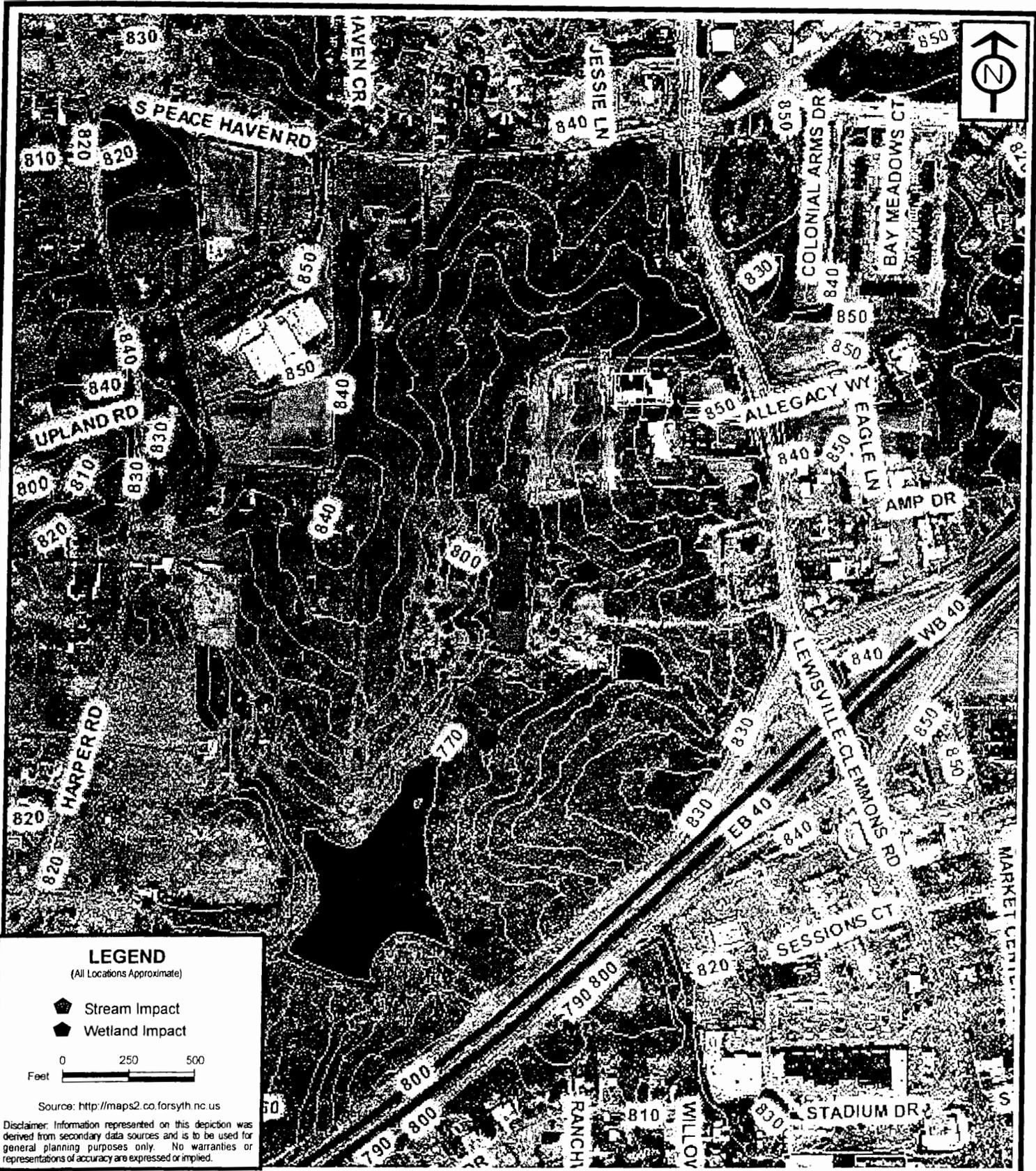
Project:	BUR06052
Date:	January 2007
Drwn/Chkd:	vbh/mhob
Figure:	1



**ENVIRONMENTAL SERVICES, INC.**  
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Topographic Depiction  
**Clemmons Tract**  
Clemmons, Forsyth County, North Carolina

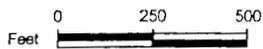
Project: BUR06052  
Date: January 2007  
Drwn/Chkd: vbh/mhob  
Figure: 2



**LEGEND**

(All Locations Approximate)

-  Stream Impact
-  Wetland Impact



Source: <http://maps2.co.forsyth.nc.us>

Disclaimer: Information represented on this depiction was derived from secondary data sources and is to be used for general planning purposes only. No warranties or representations of accuracy are expressed or implied.



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Aerial Depiction  
**Clemmons Tract**  
 Clemmons, Forsyth County, North Carolina

Project: BUR06052

Date: January 2007

Drwn/Chkd: vbh/mhob

Figure: 3

30F14



**Stimmel**  
 Landscape Architecture  
 Civil Engineering

Stimmel Associates, PA Land Planning

601 N. Trade Street  
 Suite 200  
 Winston Salem, NC  
 27101-2916  
 P: 336.723.1067  
 F: 336.723.1069

date: 1/11/07

Job #: 06-242

project: CLEMMONS TOWN CENTER

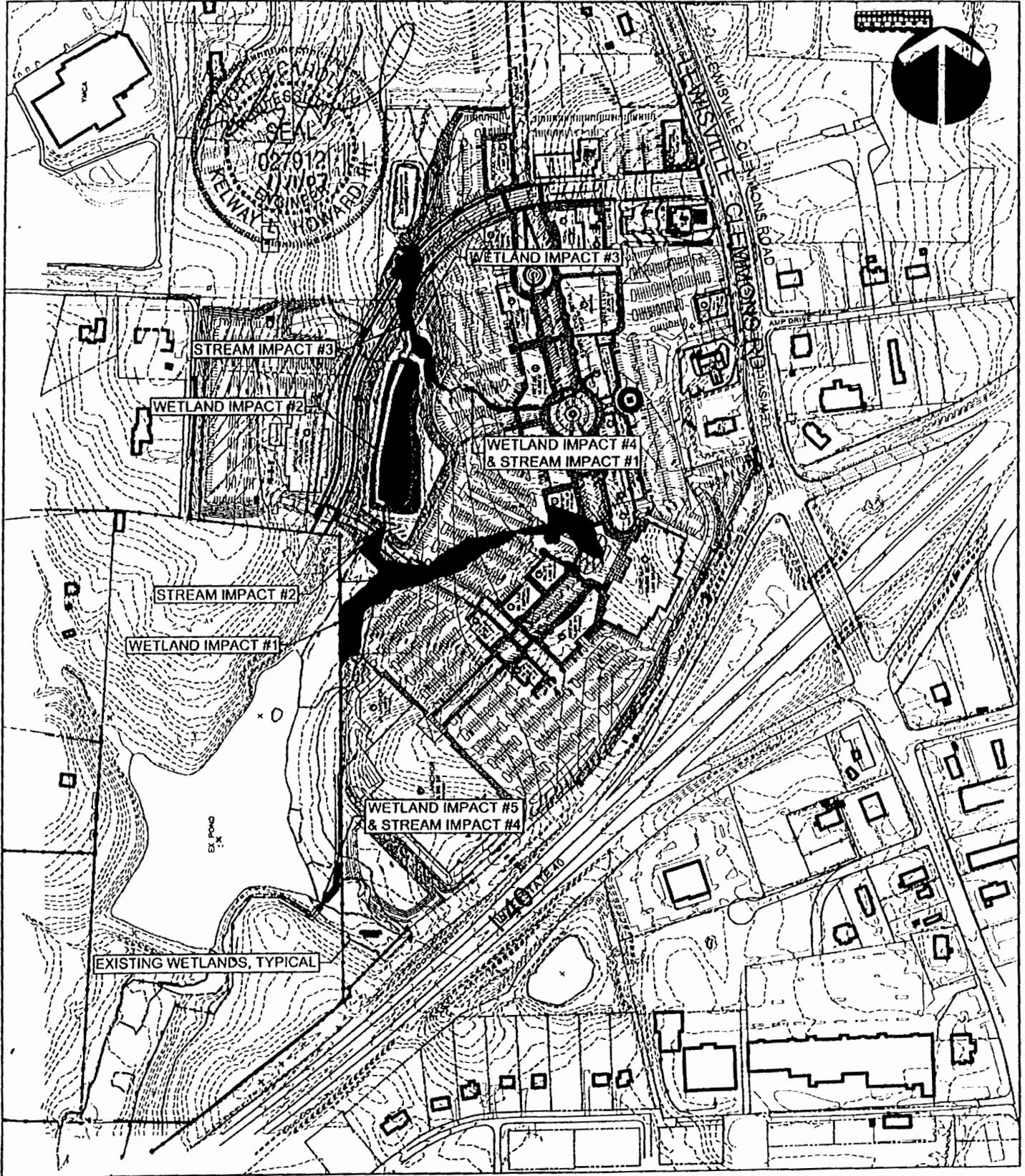
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sheet 1

of 1

description: OVERALL IMPACT LOCATION MAP

# EXHIBIT





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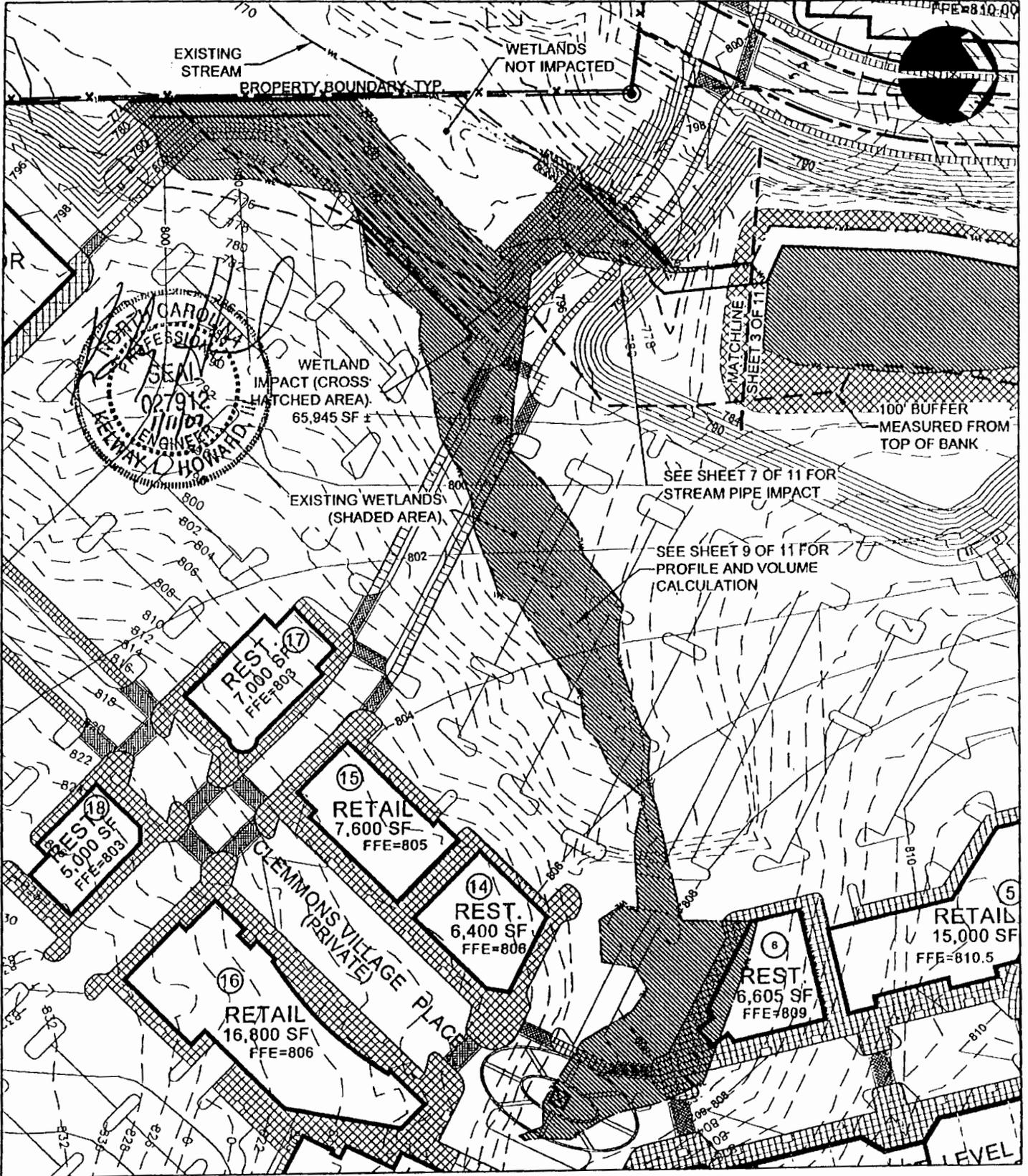
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sheet 2

of 1

description: WETLAND IMPACT #1

# EXHIBIT



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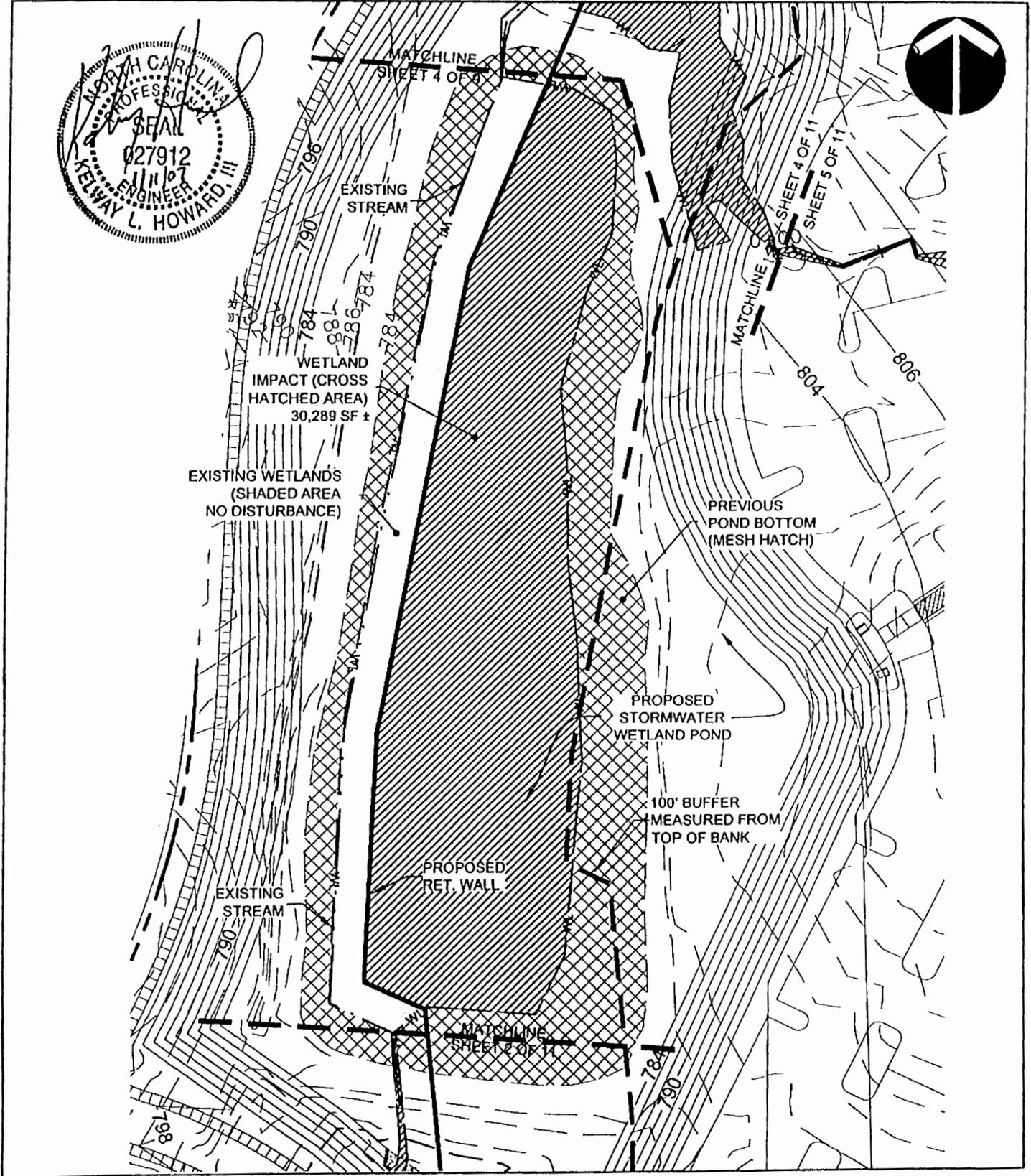
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sheet 3

of 11

description: WETLAND IMPACT #2

## EXHIBIT





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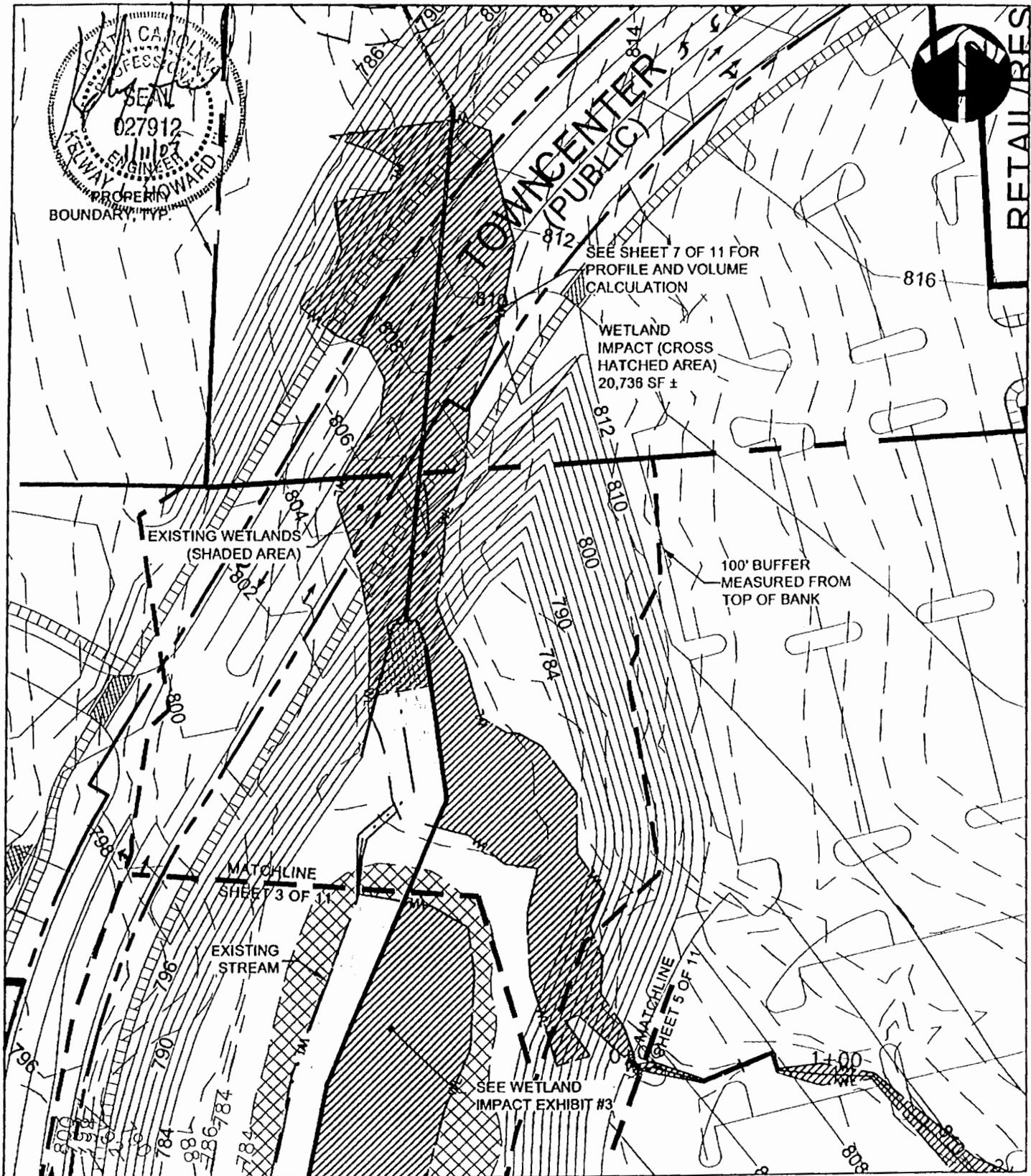
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sheet 4

of 1

description: WETLAND IMPACT #3

# EXHIBIT



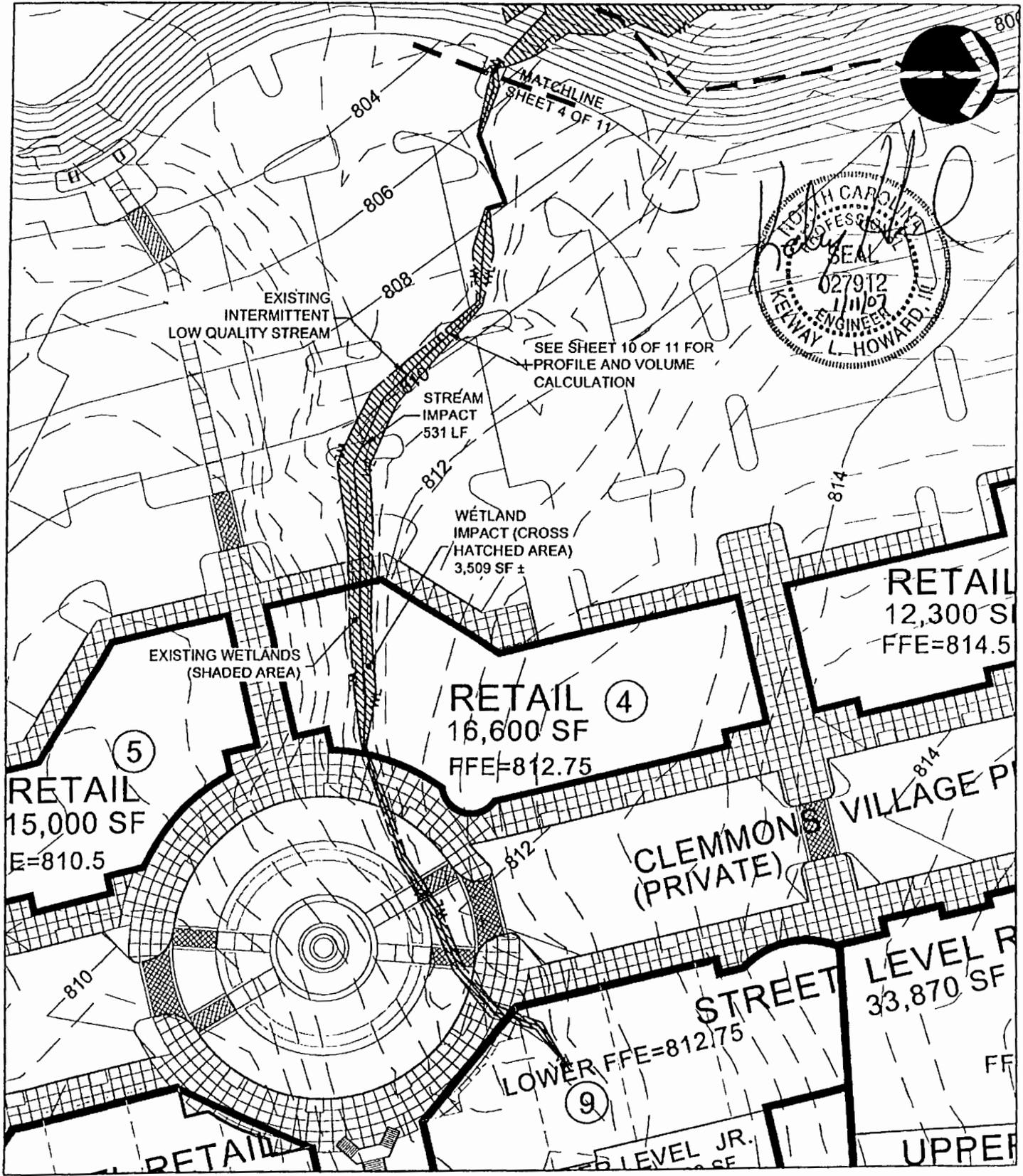


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date: 1/11/07 job #: 06-242  
 project: CLEMMONS TOWN CENTER  
 scale: 1"=60' sheet 5 of 1  
 description: WETLAND IMPACT #4 AND STREAM IMPACT #1

**EXHIBIT**





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date: 1/11/07

job #: 06-242

project: CLEMMONS TOWN CENTER

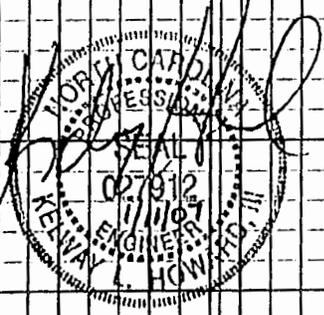
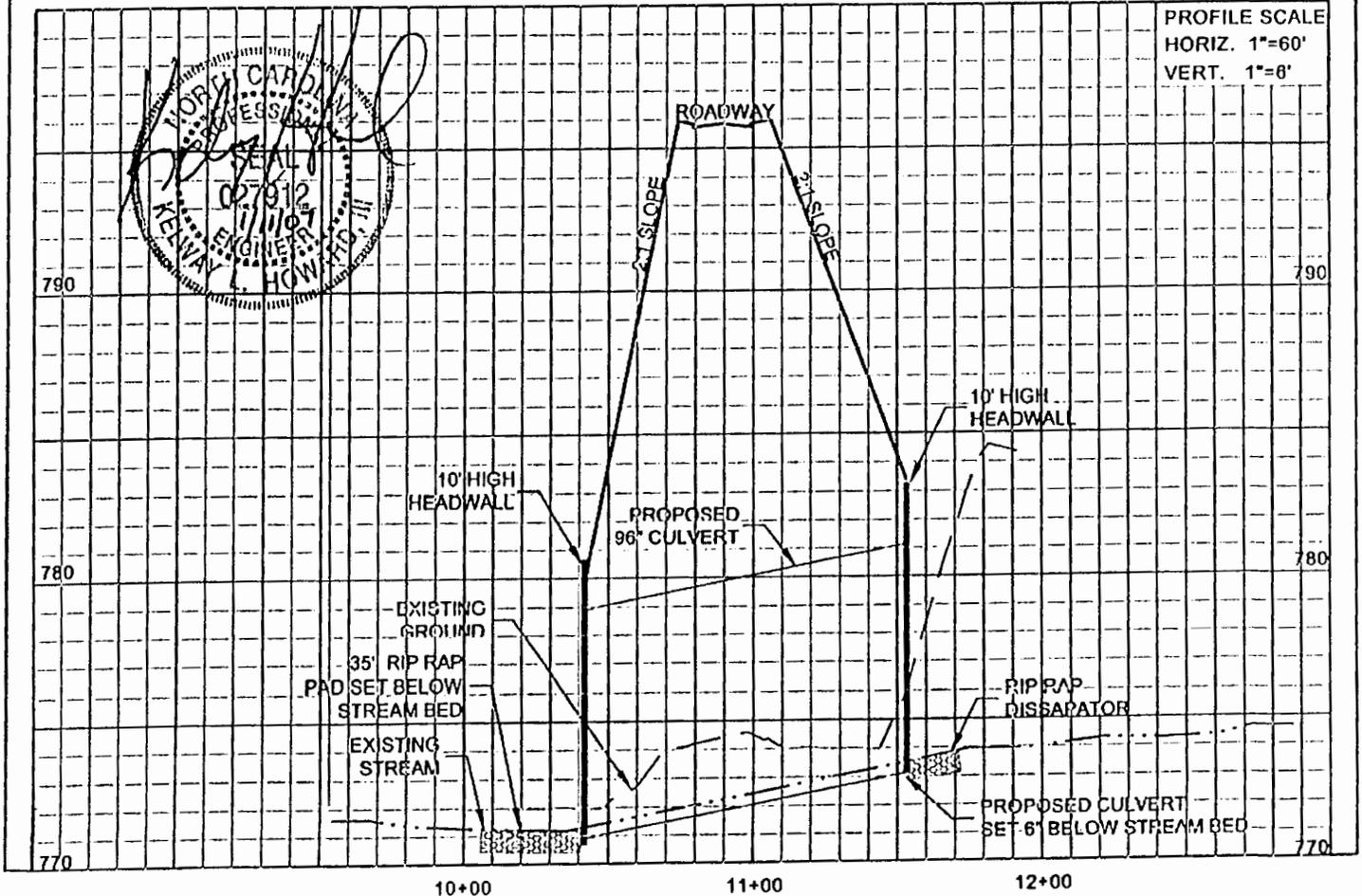
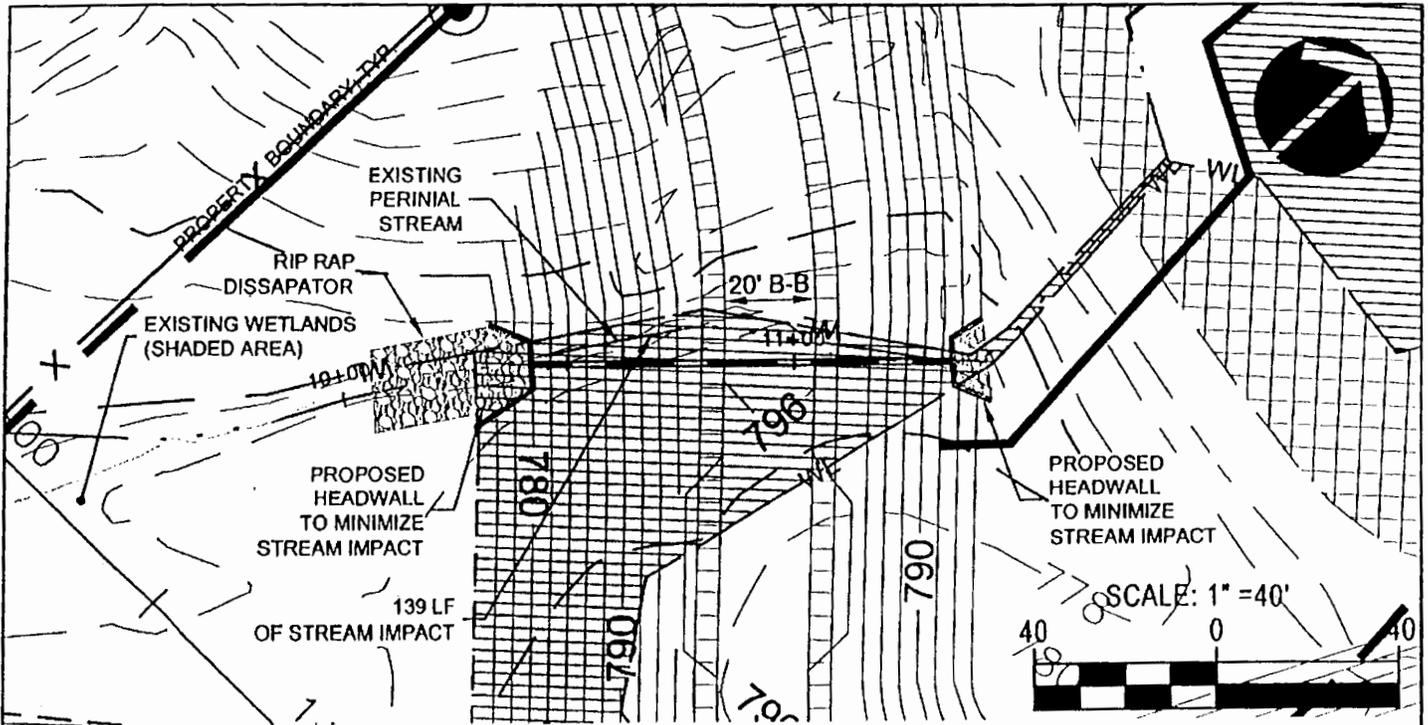
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sheet 6

of 1

description: STREAM IMPACT #2

## EXHIBIT





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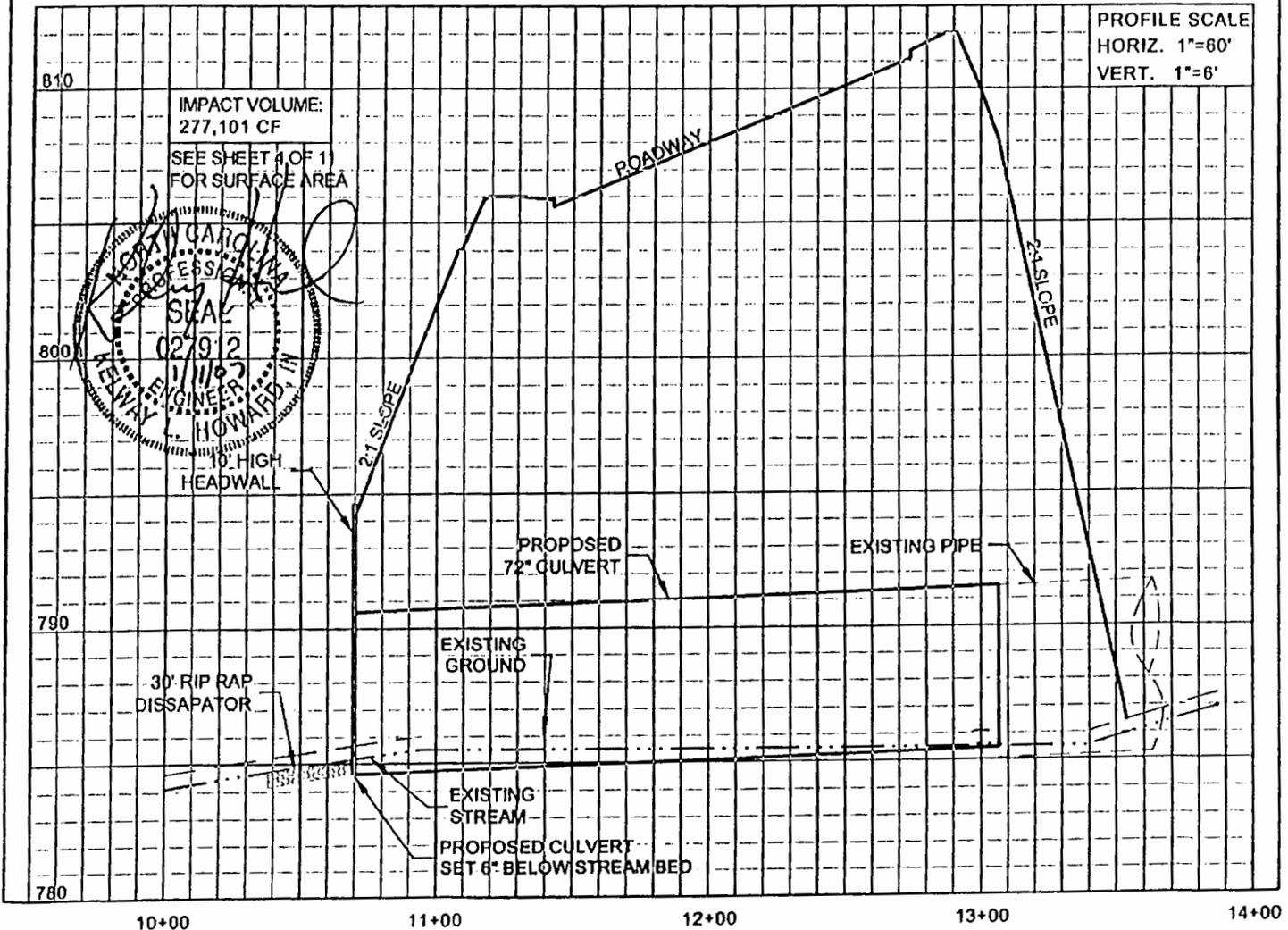
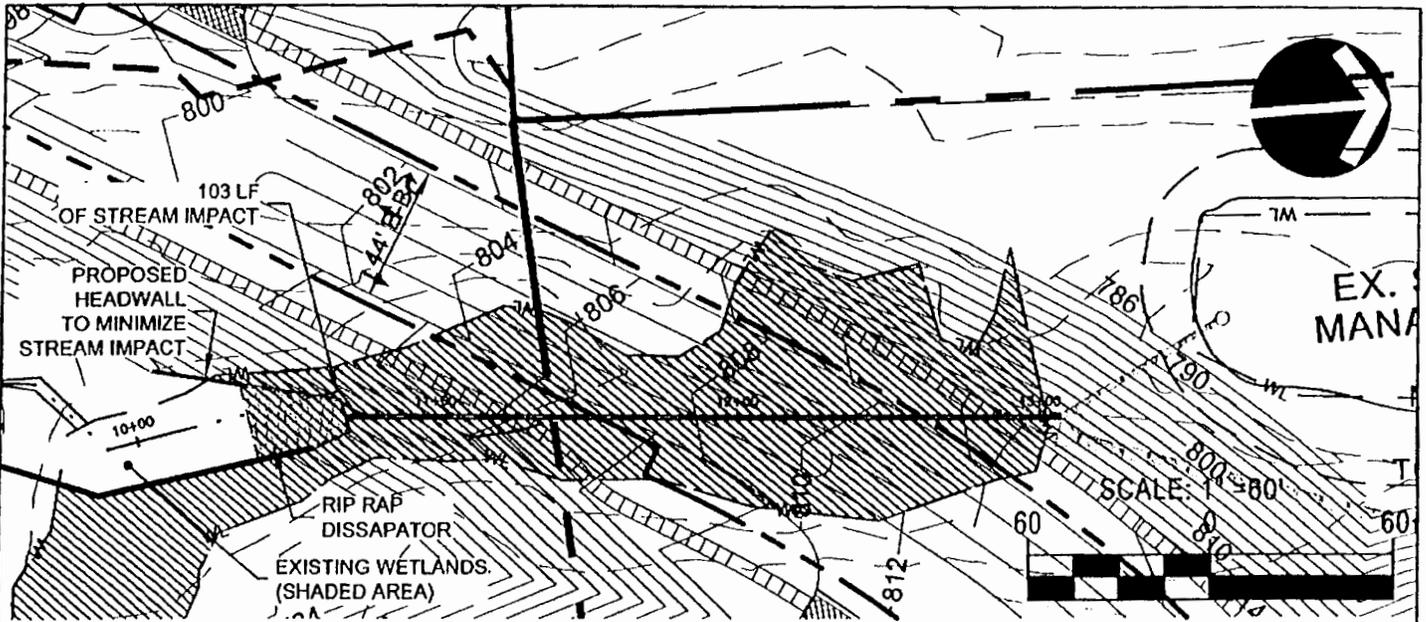
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project: CLEMMONS TOWN CENTER

scale: AS SHOWN sheet 7 of 1

description: STREAM IMPACT #3

# EXHIBIT



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date: 1/11/07

job #: 06-242

project: CLEMMONS TOWN CENTER

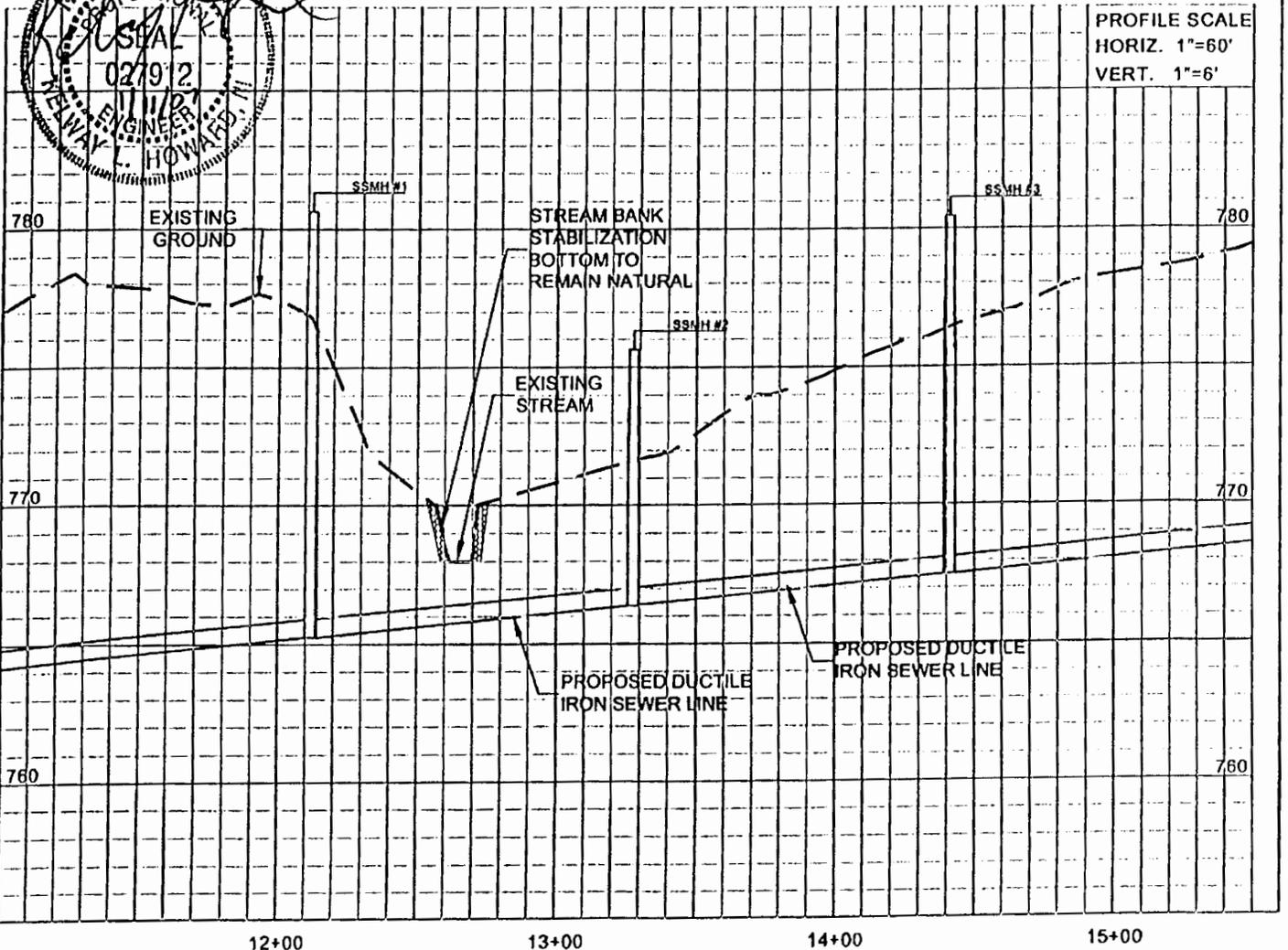
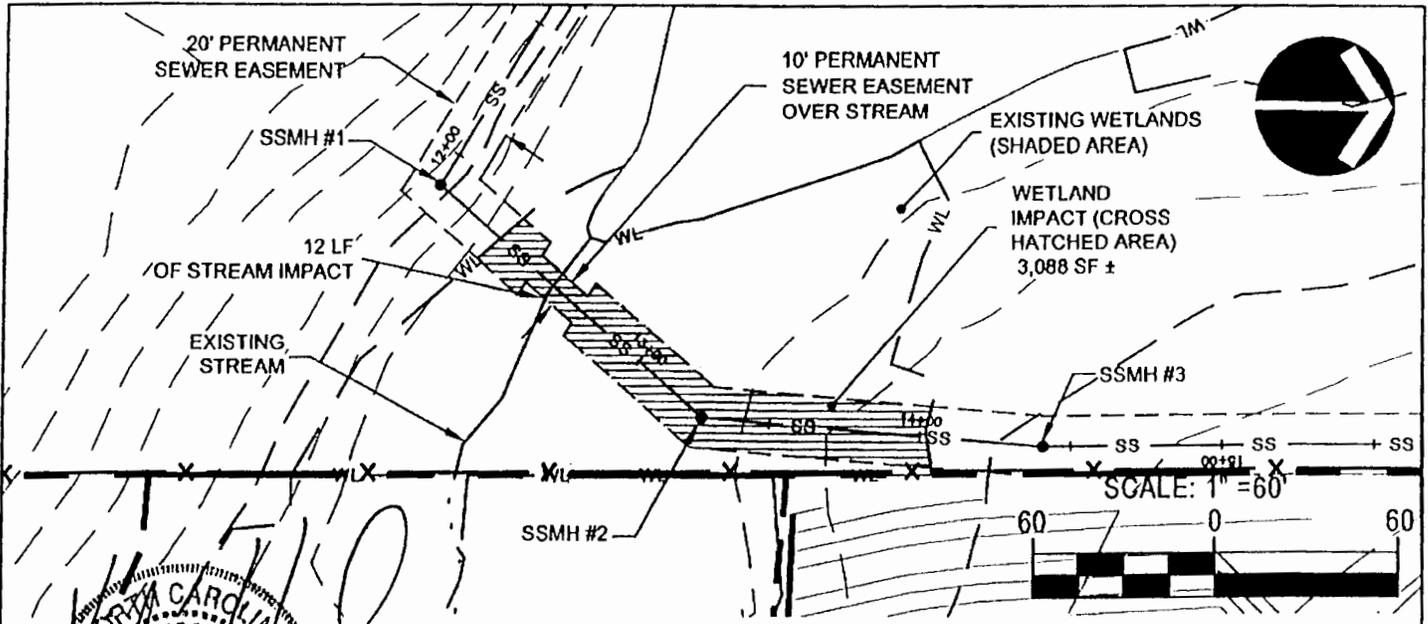
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sheet 8

of 1

description: WETLAND IMPACT #5 AND STREAM IMPACT #4

# EXHIBIT





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date: 1/11/07

Job #: 06-242

project: CLEMMONS TOWN CENTER

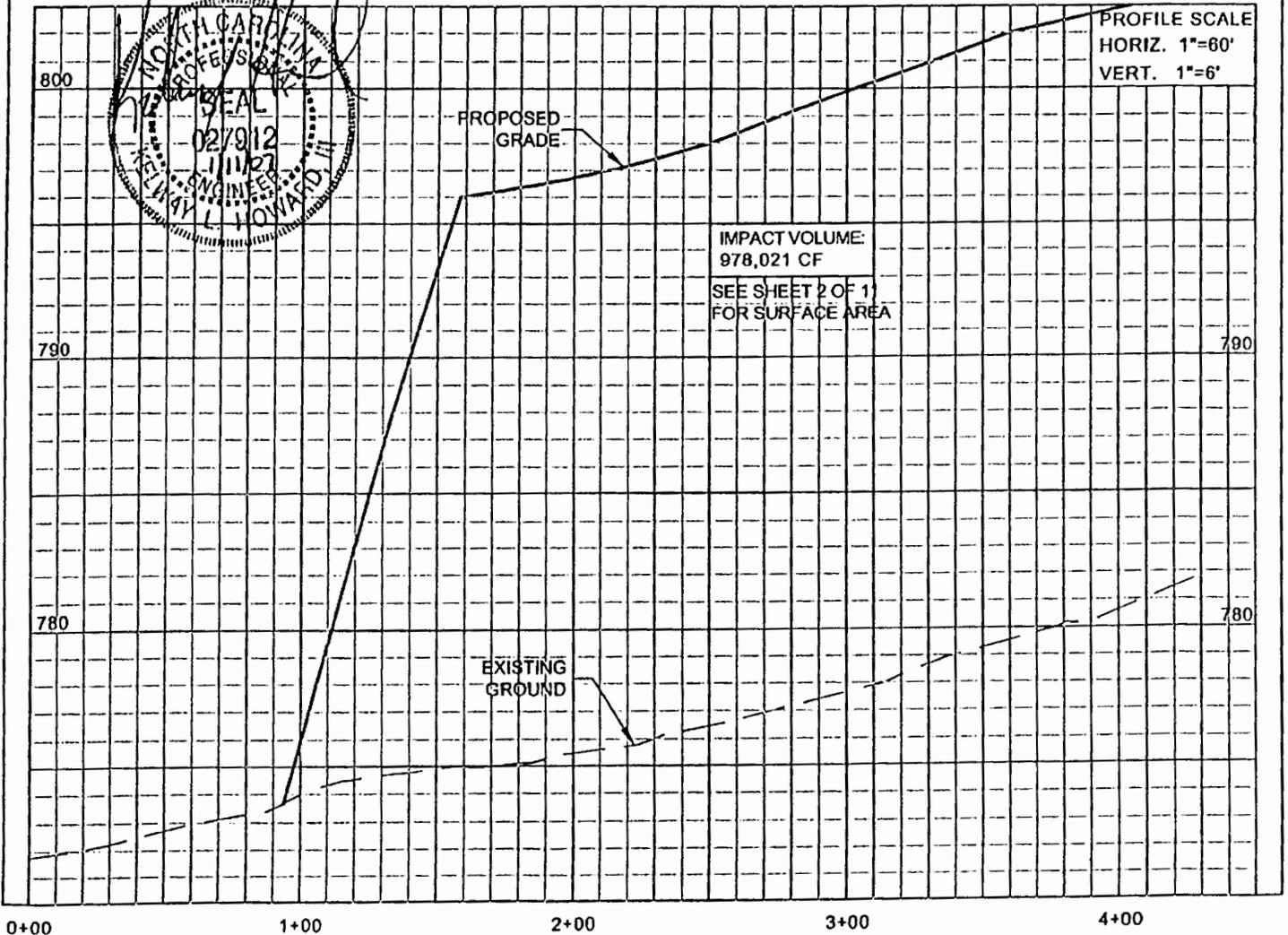
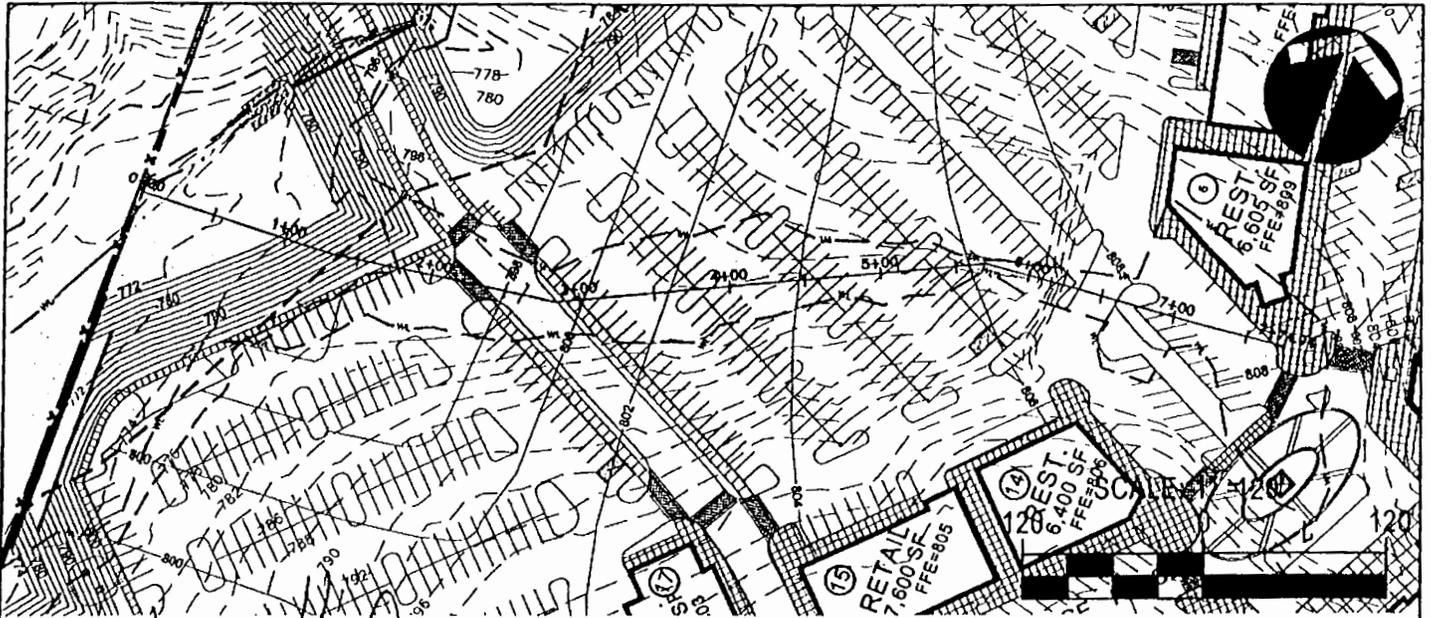
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sheet 9

of 1

description: WETLAND IMPACT PROFILE

# EXHIBIT





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date: 1/11/07

Job #: 06-242

project: CLEMMONS TOWN CENTER

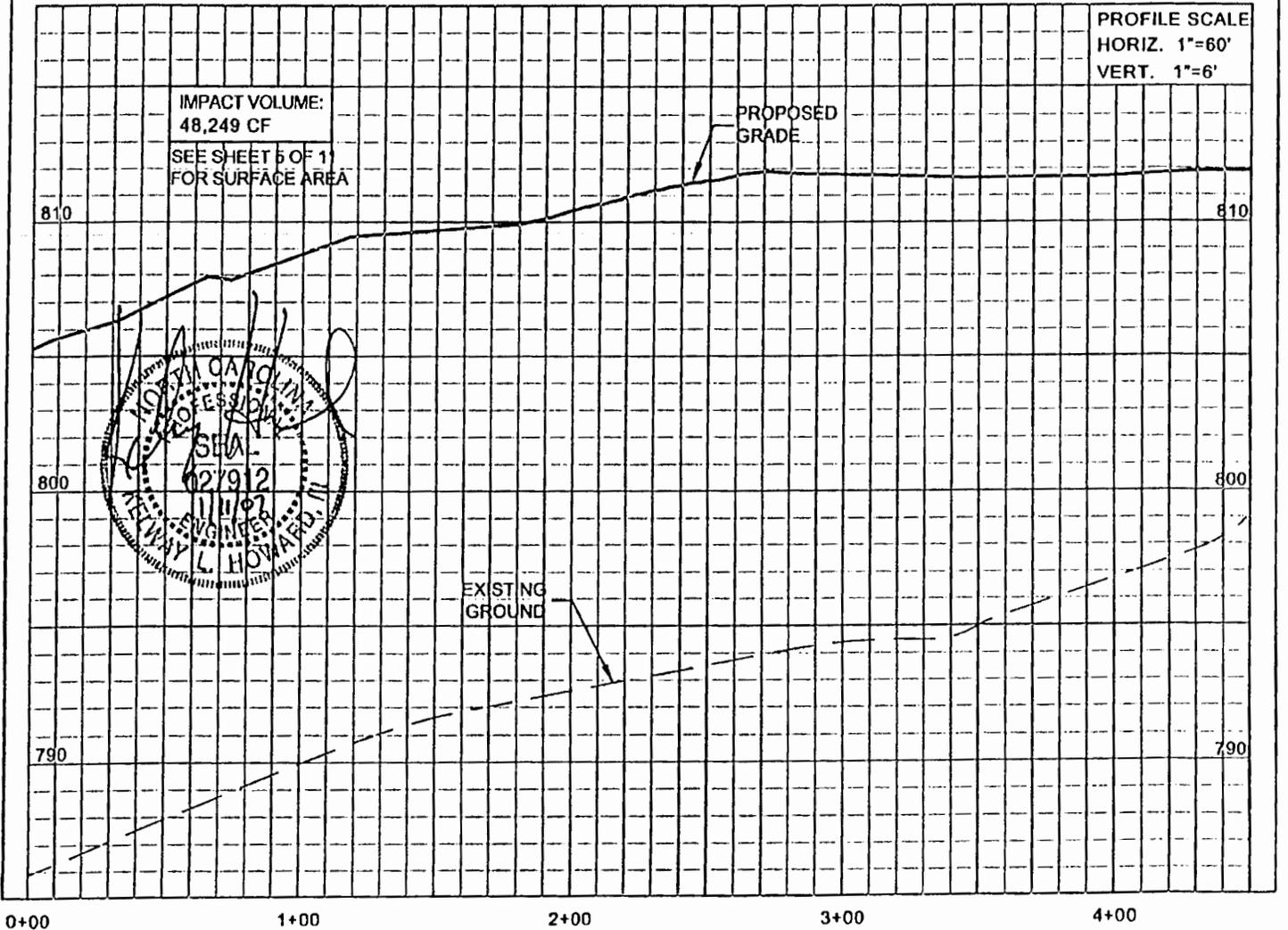
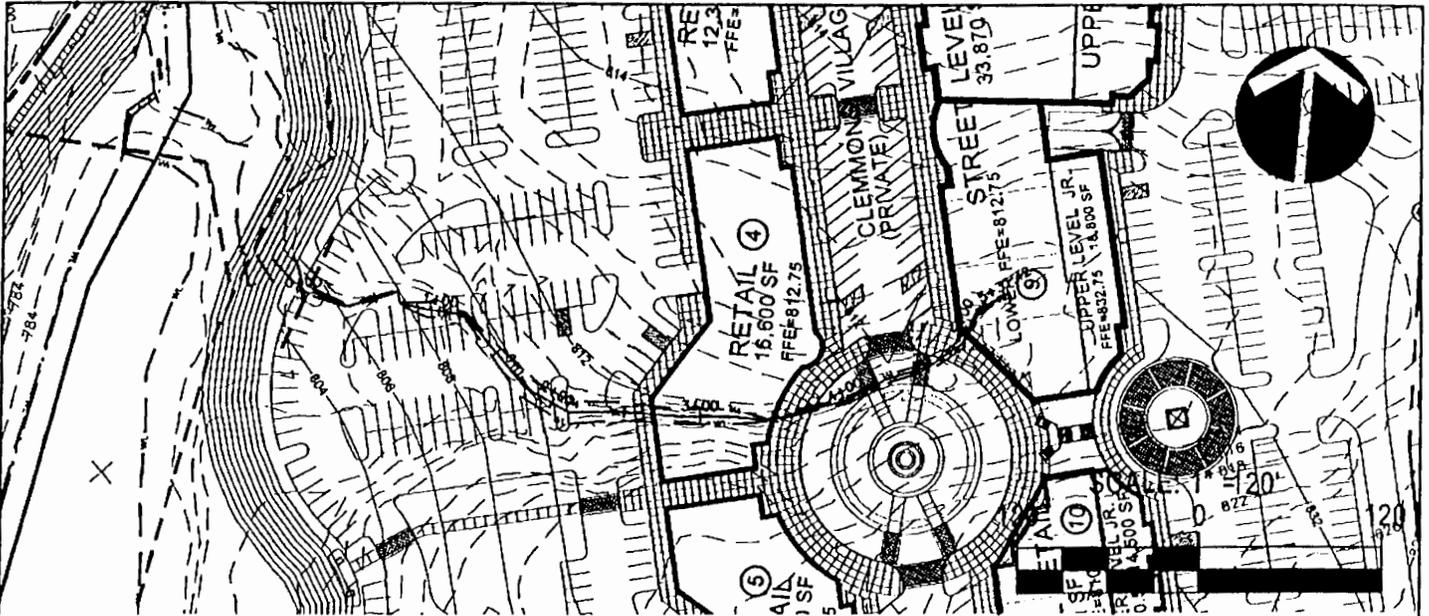
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sheet 10

of 1

description: WETLAND IMPACT PROFILE

# EXHIBIT





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date: 1/11/07

job #: 06-242

project: CLEMMONS TOWN CENTER

scale: N/A

sheet 11

of 1

description: SHEET LIST

# EXHIBIT



## ITEMIZE LIST OF IMPACTS

SHEET INDEX	WETLAND IMPACTS SURFACE AREA	STREAM IMPACTS	VOLUME IMPACT
SHEET 2 OF 11	65,945 SF		N/A
SHEET 3 OF 11	30,289 SF		N/A
SHEET 4 OF 11	20,736 SF		SEE SHEET #7
SHEET 5 OF 11	3,509 SF	531 LF	SEE SHEET #11
SHEET 6 OF 11		139 LF	SEE SHEET #9
SHEET 7 OF 11		103 LF	277,101 CF
SHEET 8 OF 11	3,088 SF TEMPORARY	12 LF TEMPORARY	N/A
SHEET 9 OF 11			978,021 CF
SHEET 10 OF 11			48,249 CF