



# PUBLIC NOTICE

US Army Corps  
of Engineers  
New York District  
Jacob K. Javits Federal Building  
New York, N.Y. 10278-0090  
ATTN: Regulatory Branch

**In replying refer to:**  
Public Notice Number: NAN-2004-814-WOR  
Issue Date: February 26, 2008  
Expiration Date: March 27, 2008

To Whom It May Concern:

The New York District, Corps of Engineers has received an application for a Department of the Army permit pursuant to Section 404 of the Clean Water Act (33 U.S.C. 1344).

APPLICANT: Wilder Balter Partners  
570 Taxter Road  
Elmsford, New York 10523

ACTIVITY: Discharge fill material into approximately 1.16 acres of waters of the United States, including wetlands, for the construction of a shopping center to be known as the Marketplace at Newburgh.

WATERWAY: Unnamed Tributary to Quassaic Creek (Hudson River Watershed)

LOCATION: Town of Newburgh, Orange County, New York.

A detailed description and plans of the applicant's activity are enclosed to assist in your review.

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. 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, floodplain values, 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.

The Corps of Engineers 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 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 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 proposed activity.

ALL COMMENTS REGARDING THE PERMIT APPLICATION MUST BE PREPARED IN WRITING AND MAILED TO REACH THIS OFFICE BEFORE THE EXPIRATION DATE OF THIS NOTICE, otherwise, it will be presumed that there are no objections to the activity.

CENAN-OP-RW  
PUBLIC NOTICE NO. NAN-2004814WOR

Any person may request, in writing, before this public notice expires, that a public hearing be held to collect information necessary to consider this application. Requests for public hearings shall state, with particularity, the reasons why a public hearing should be held. It should be noted that information submitted by mail is considered just as carefully in the permit decision process and bears the same weight as that furnished at a public hearing.

Our preliminary determination is that the activity for which authorization is sought herein is not likely to affect any Federally endangered or threatened species or their critical habitat. However, pursuant to Section 7 of the Endangered Species Act (16 U.S.C. 1531), the District Engineer is consulting with the appropriate Federal agency to determine the presence of and potential impacts to listed species in the project area or their critical habitat.

Based upon a review of the latest published version of the National Register of Historic Places, there are no known sites eligible for, or included in, the Register within the permit area. Presently unknown archeological, scientific, prehistorical, or historical data may be lost by work accomplished under the required permit.

Reviews of activities pursuant to Section 404 of the Clean Water Act will include application of the guidelines promulgated by the Administrator, U.S. Environmental Protection Agency, under authority of Section 404 (b) of the Clean Water Act and the applicant will obtain a water quality certificate or waiver from the appropriate state agency in accordance with Section 401 of the Clean Water Act prior to a permit decision.

It is requested that you communicate the foregoing information concerning the activity to any persons known by you to be interested and who did not receive a copy of this notice. If you have any questions concerning this application, you may contact this office at (917) 790-8413 and ask for Brian A. Orzel.

For more information on New York District Corps of Engineers programs, visit our website at <http://www.nan.usace.army.mil>

For /   
Richard L. Tomer  
Chief, Regulatory Branch

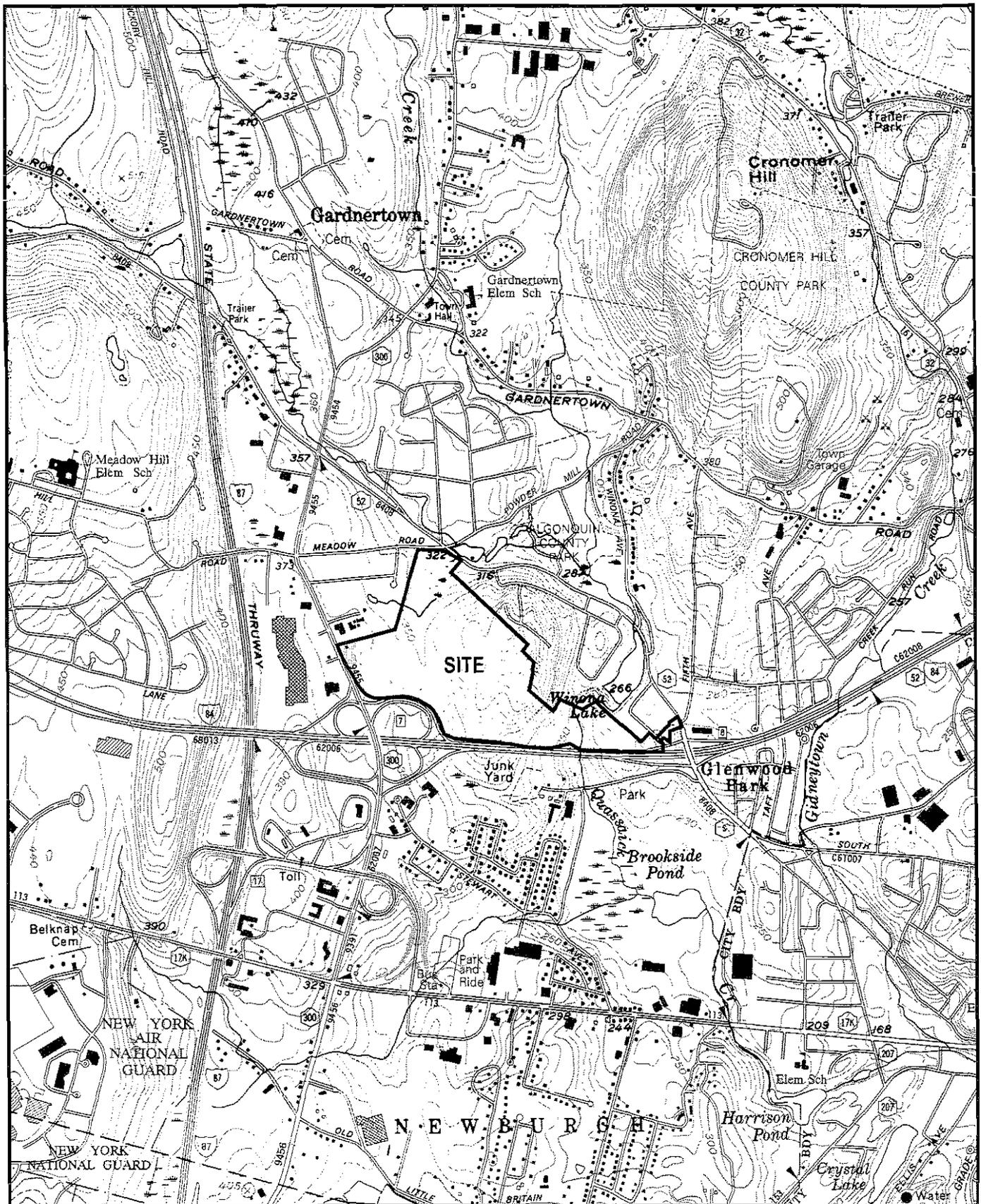
Enclosures

WORK DESCRIPTION

The applicant, Wilder Balter Partners, has requested Department of the Army authorization for the discharge of fill material into approximately 1.16 acres of waters of the United States, including wetlands, in association with the construction of a shopping center, to be known as the Marketplace at Newburgh. The site is located on New York State Route 300 (Union Avenue) in the Town of Newburgh, Orange County, New York.

The applicant proposes a wetland mitigation plan which would include the establishment of approximately 1.99 acres of wetlands.

The stated purpose of this proposed work is to construct a retail shopping center complex.



**Sheet 1 of 14: Location Map**

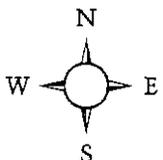
The Marketplace at Newburgh

Town of Newburgh, Orange County, New York

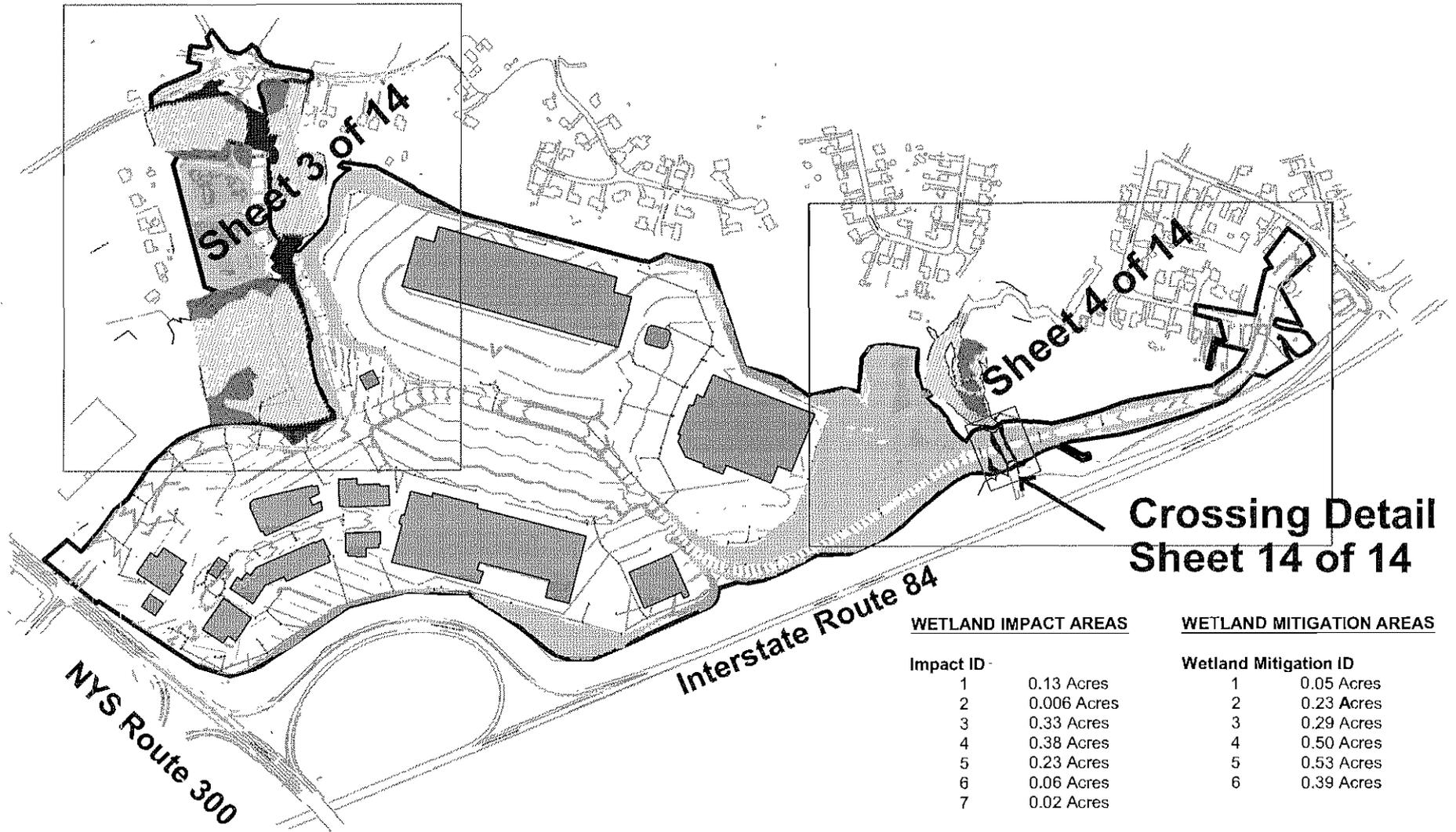
Base: NYSDOT Topographic and Planimetric Maps,

Newburgh Quad (1957, 1991)

Scale: 1 inch = 2,000 feet



Latitude: 41° 31' 02" N  
 Longitude: 74° 03' 50" W



**Crossing Detail  
Sheet 14 of 14**

**WETLAND IMPACT AREAS**

Impact ID	Acres
1	0.13 Acres
2	0.006 Acres
3	0.33 Acres
4	0.38 Acres
5	0.23 Acres
6	0.06 Acres
7	0.02 Acres

**Total 1.16 Acres**

**WETLAND MITIGATION AREAS**

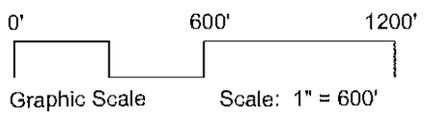
Wetland Mitigation ID	Acres
1	0.05 Acres
2	0.23 Acres
3	0.29 Acres
4	0.50 Acres
5	0.53 Acres
6	0.39 Acres

**Total 1.99 Acres**

**LEGEND**

-  EXISTING WETLAND
-  WETLAND IMPACTS
-  WETLAND MITIGATION AREAS

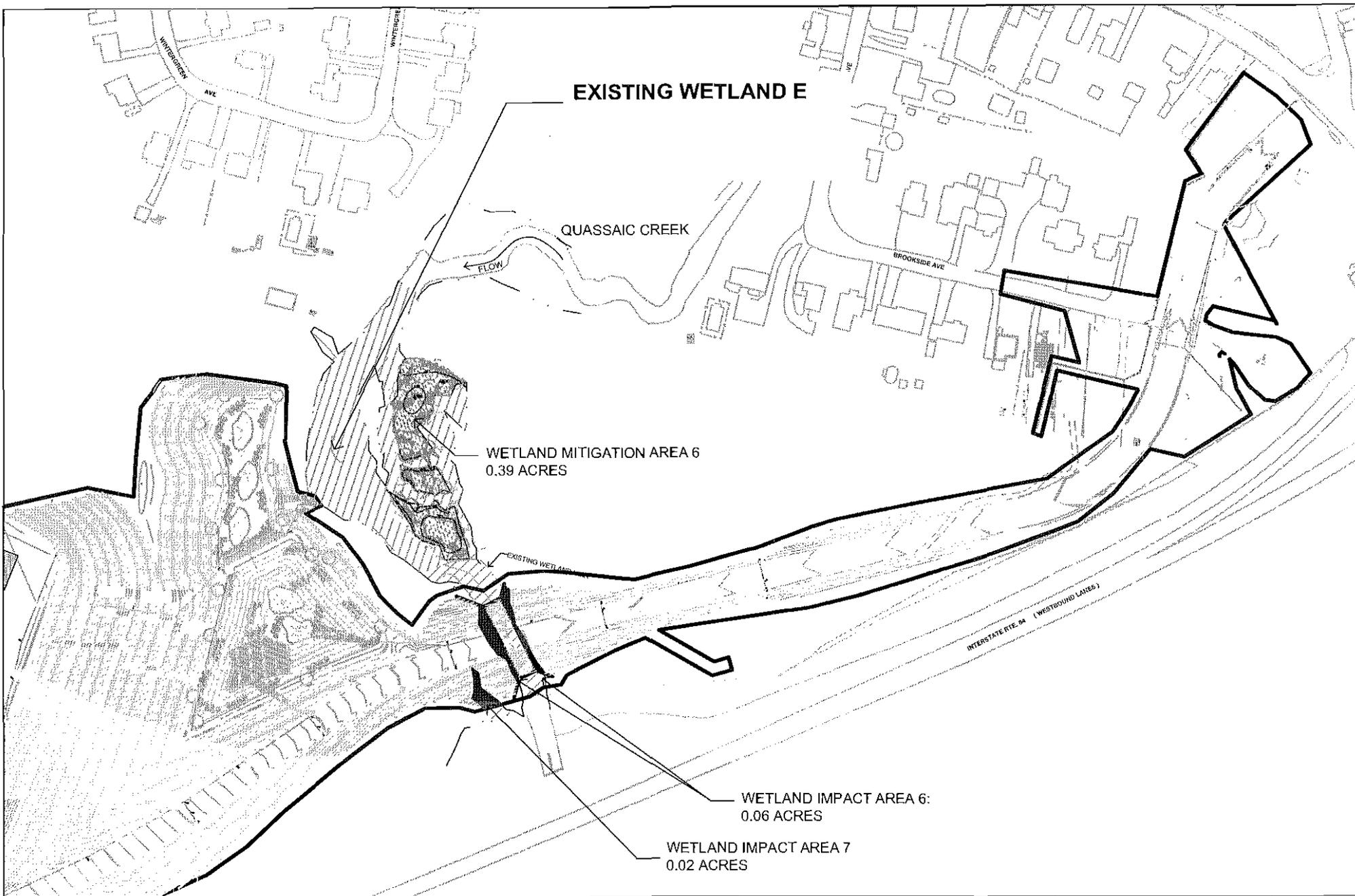
**Tim Miller Associates, Inc.**  
 10 North Street, Cold Spring, NY 10516  
 (845) 265-4400, Fax: 265-4418



Wetland Impacts and  
 Mitigation Areas  
 for the development of  
**The Marketplace**  
 Town of Newburgh, Orange County, NY

Source: Divney Tung Schwalbe, LLP





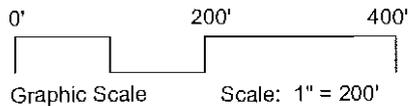
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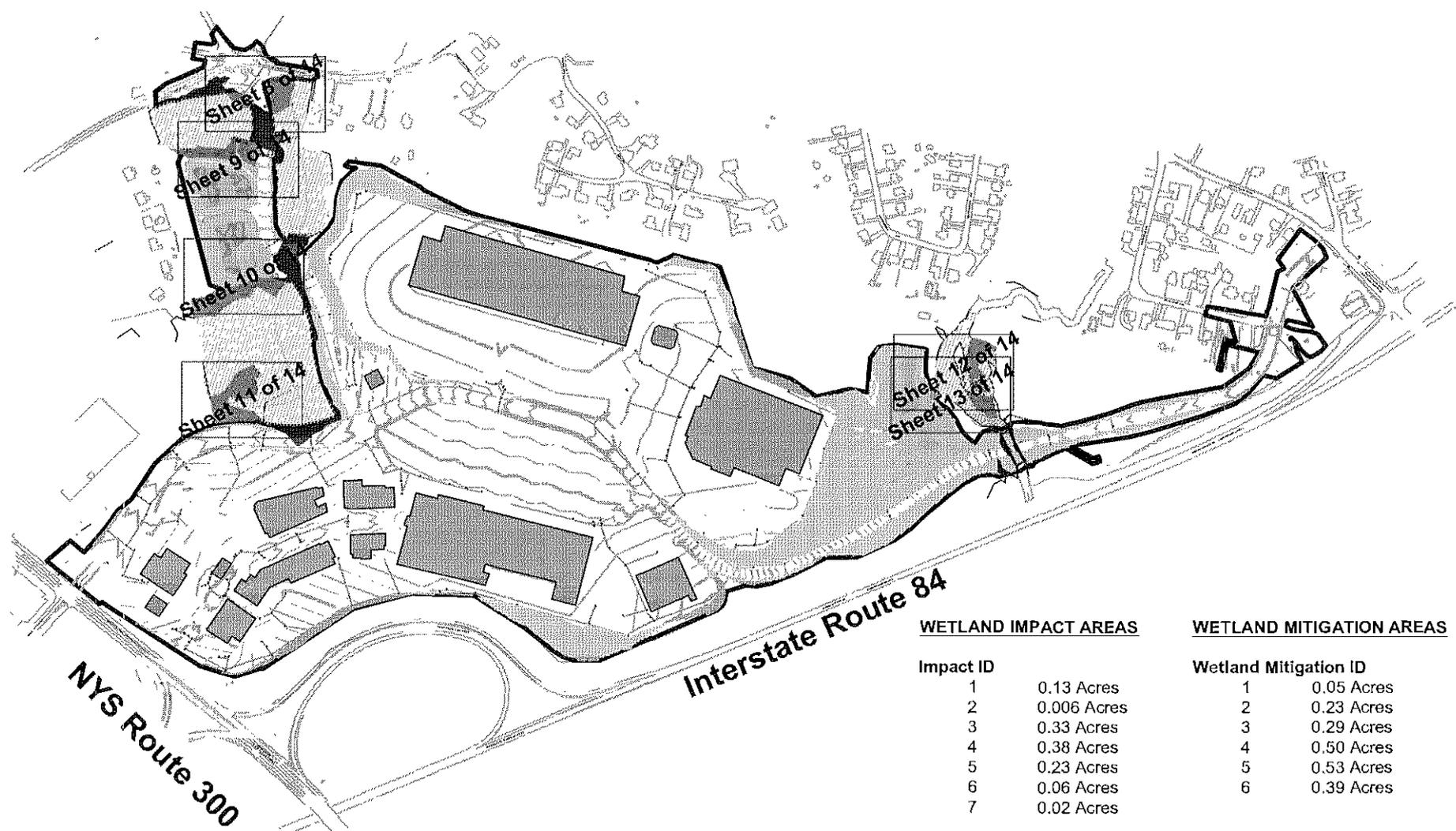
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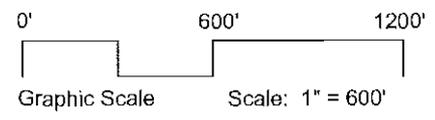
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Wetland impacts and Mitigation Areas for development of **The Marketplace**  
 Town of Newburgh, Orange County, NY

Source: Divney Tung Schwalbe, LLP

### Construction Notes for Mitigation Areas:

- 1) Prior to commencement of excavation, installation of erosion controls will be completed at proposed limits of disturbance and trees to be preserved will be identified with flagging or paint.
- 2) Regrade area and spread topsoil four to six inches deep using existing stockpiles. Final grading is to be generally completed as shown on this plan. Some field adjustment to achieve desired flow paths is acceptable.
- 3) Invasive species such as honeysuckle, barberry, purple loosestrife, and phragmites will be removed from the wetland and adjoining areas to the extent practicable.
- 4) Trees to remain will be identified prior to the commencement of site grading. These trees will be flagged in the field prior to the commencement of any clearing or excavation. Leave smaller existing trees in assumed area of disturbance to the extent practicable. Field adjustments to the grading plan may be necessary in order to ensure minimal impacts to roots of trees to be saved.
- 5) All plants shall originate from USDA Hardiness Zones 4 or 5. Planting of trees, shrubs and herbaceous material within the wetland mitigation area as specified on the approved plan. Seeding and stabilizing area with approved wetland seed mix.
- 6) Hay and seed area of wetland expansion with Ernst Conservation Seeds Northeast Wetland Hummock Mix or equivalent. Companion seed with annual ryegrass as per grower's recommendations.

### Northeast Wetland Hummock Mix

1 pound will cover 13,400 sq. ft. @100 seeds per sq.ft.

<u>Percent by No of Seeds</u>	<u>Scientific Name</u>	<u>Common Name</u>
43.6%	Scirpus atrovirens	Green Bulrush
19.0%	Juncus effusus	Soft Rush
33.5%	Carex vulpinoidea	Fox Sedge
1.3%	Leersia ozyroides	Rice Cut Grass
1.3%	Carex comosa	Bearded Sedge
0.9%	Carex crinita	Fringed Sedge
0.2%	Carex lurida	Shallow Sedge
0.2%	Carex lupulina	Hop Sedge

Note: All created wetlands are Emergent and Shrub-Scrub Wetlands that are intended to transition into Forested Wetlands.

MARKETPLACE WETLAND MITIGATION PLANT LIST

ID	Species Name	Common Name	QTY	Size
<b>Trees</b>				
AR	Acer rubrum	Red maple	34	1" cal.
FP	Fraxinus pensylvanica	Green Ash	16	1" cal.
NS	Nyssa sylvatica	Black tupelo	4	1" cal.
<b>Shrubs</b>				
			0	
AS	Ainus serrulata	Speckled alder	114	3-gal
AA	Aronia arbutifolia	Red chokeberry	21	3-gal
CO	Cephalanthus occidentalis	Buttonbush	7	3-gal
CR	Cornus racemosa	Gray dogwood	32	3-gal
Cse	Cornus sericea	Redosier dogwood	48	3-gal
IV	Ilex verticillata	Winterberry	47	3-gal
LB	Lindera benzoin	Spicebush	35	3-gal
VC	Vaccinium corymbosum	Highbush blueberry	60	3-gal
VD	Viburnum dentatum	Arrowwood viburnum	44	3-gal
VP	Viburnum prunifolium	Blackhaw viburnum	14	3-gal
<b>Herbaceous Material</b>				
CC	Carex crinita	Fringed sedge	240	2" plug
CS	Carex stricta	Tussock sedge	764	2" plug
JE	Juncus effusus	Soft Rush	662	2" plug
LO	Leerzia ozyroides	Rice cutgrass	879	2" plug
OC	Osmunda cinnamomea	Cinnamon fern	151	2" plug
OR	Osmunda regalis	Royal fern	423	2" plug
OS	Onoclea sensibilis	Sensitive fern	757	2" plug
SAm	Sparganium americanum	American burreed	662	2" plug
SE	Sparganium eurycarpum	Giant burreed	334	2" plug
SF	Symplocarpus foetidus	Skunk cabbage	244	2" plug

**LEGEND**



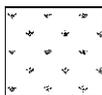
PROPOSED EVERGREEN TREE



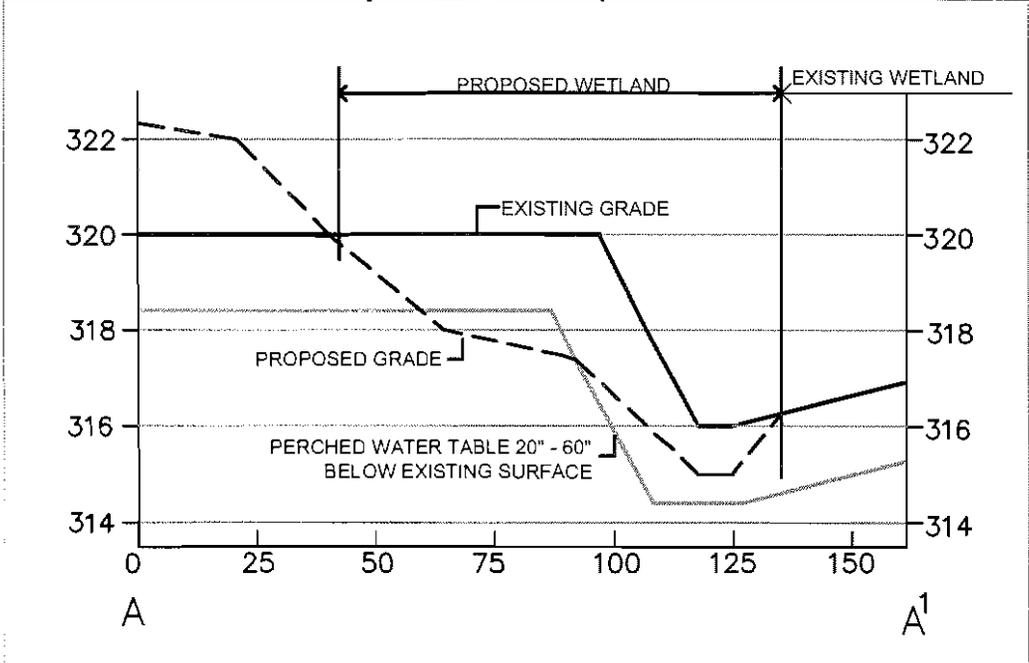
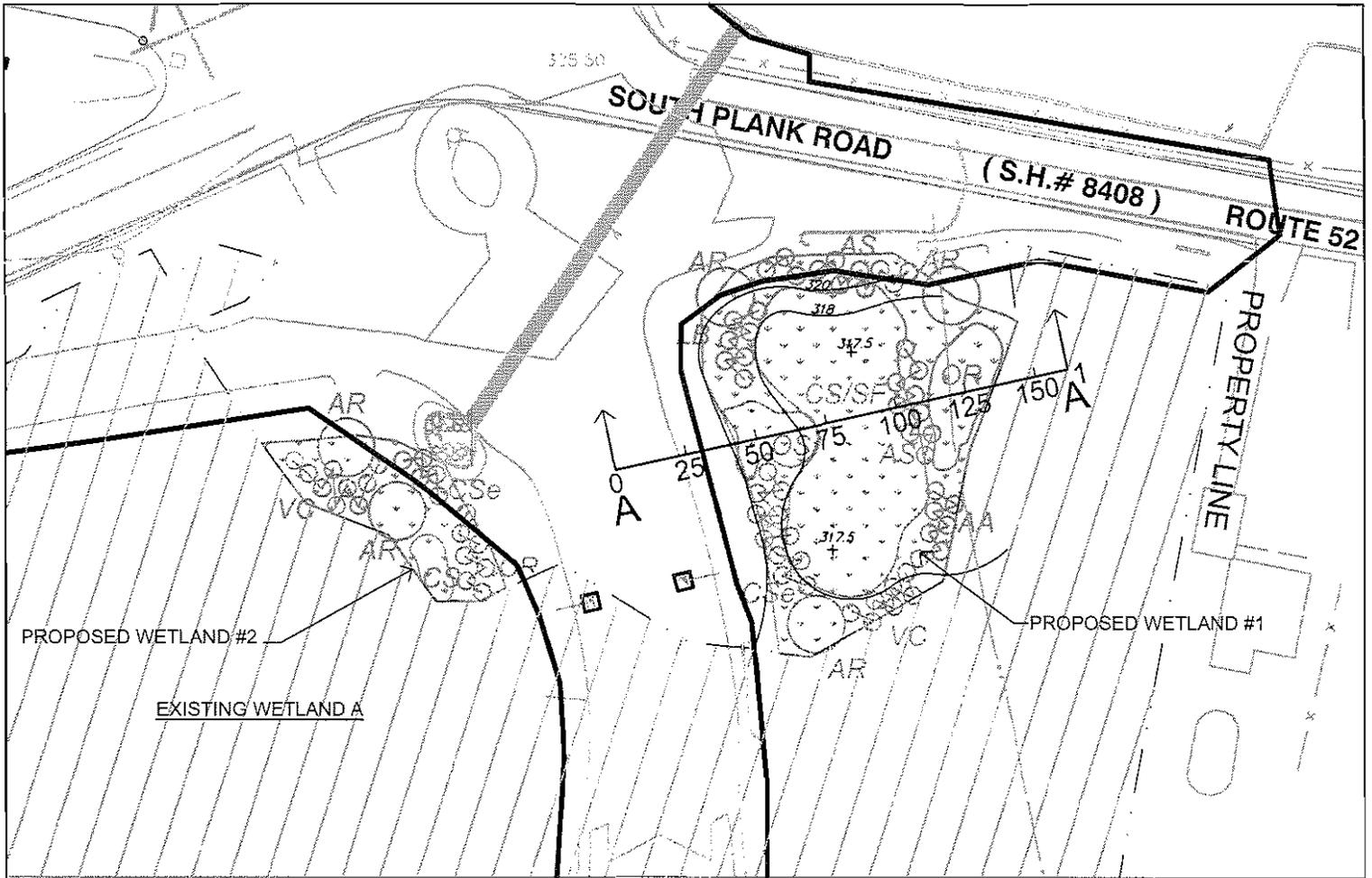
PROPOSED DECIDUOUS TREE



PROPOSED WETLAND SHRUB MASS

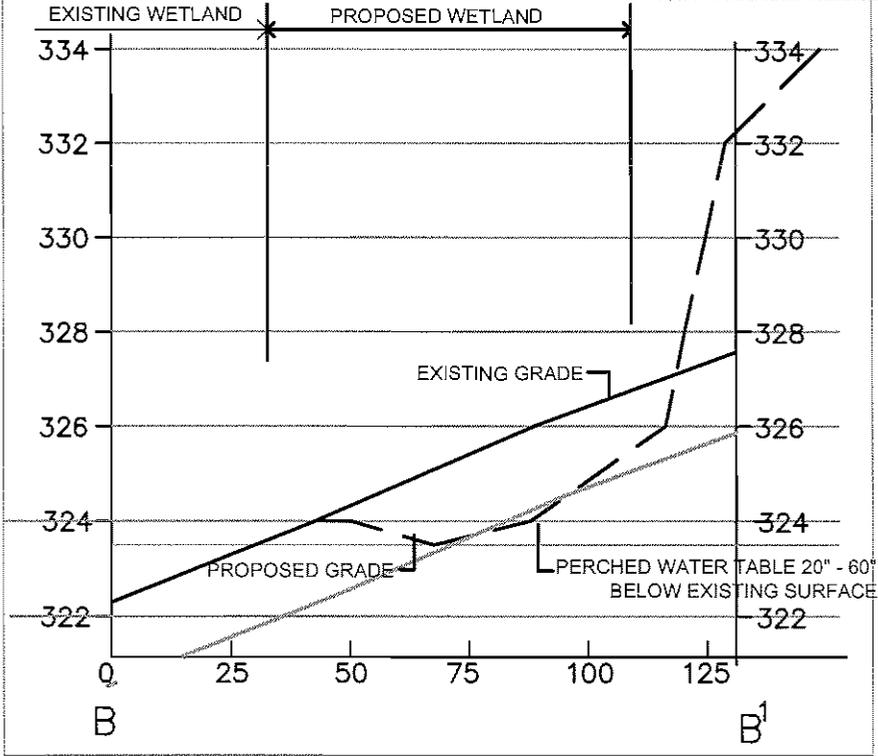
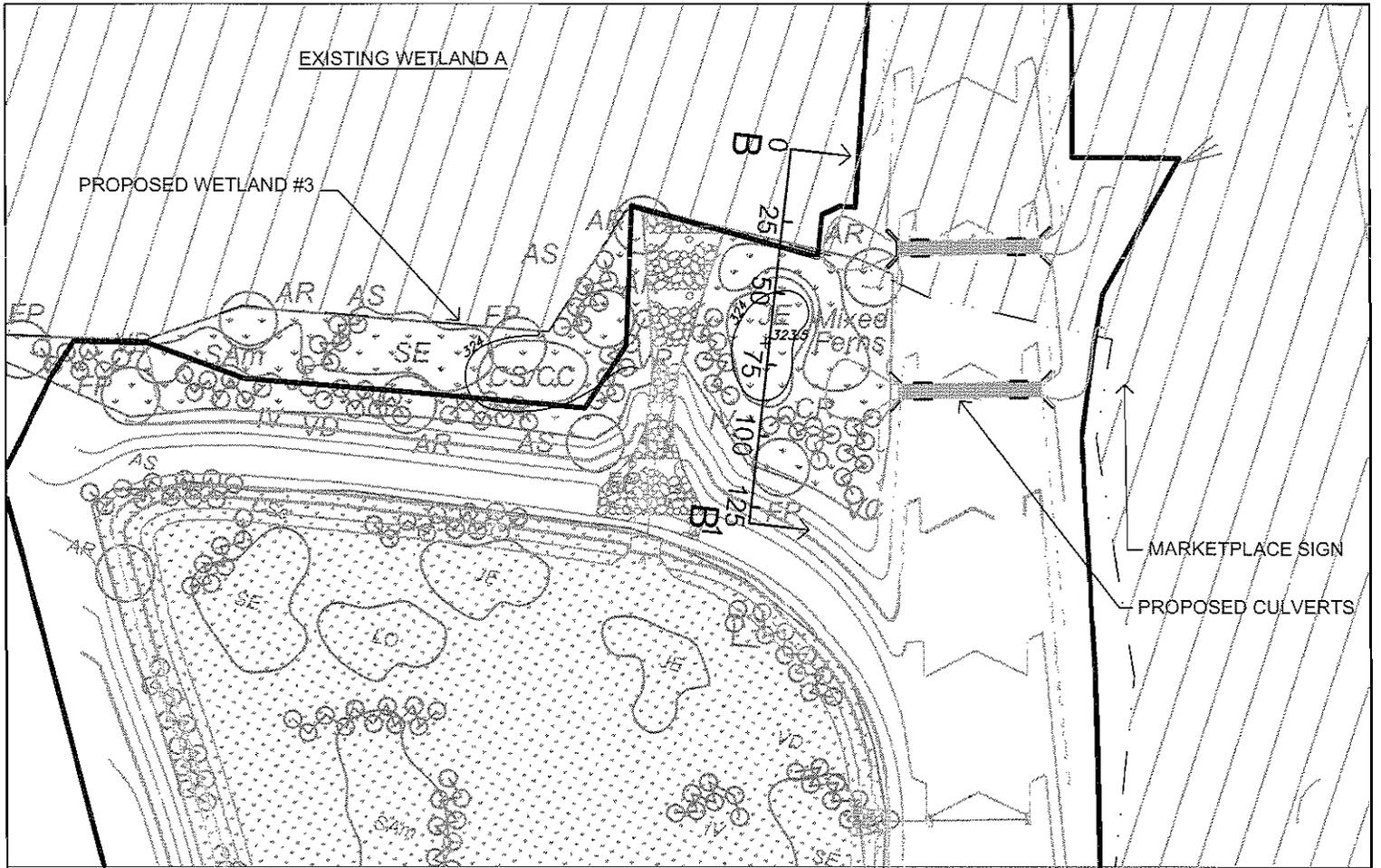


PROPOSED N.E. HUMMOCK SEED MIX (SEE WM-3)



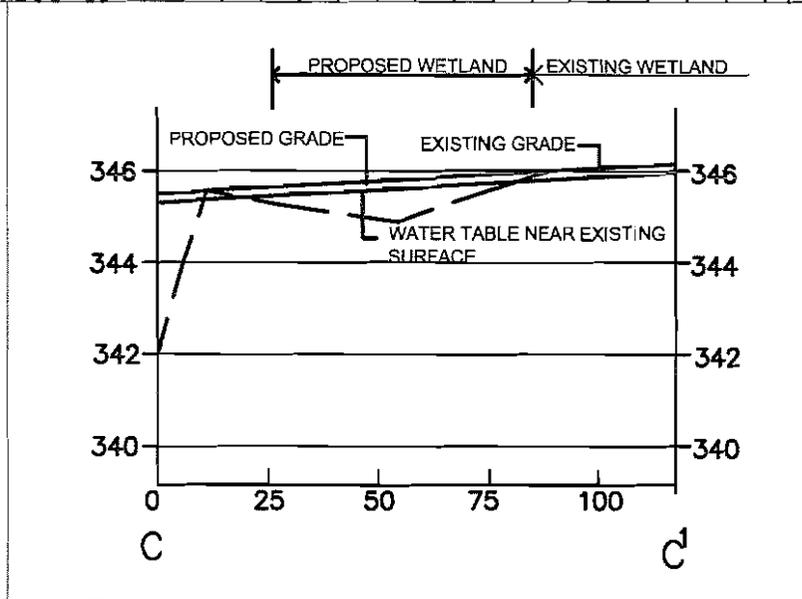
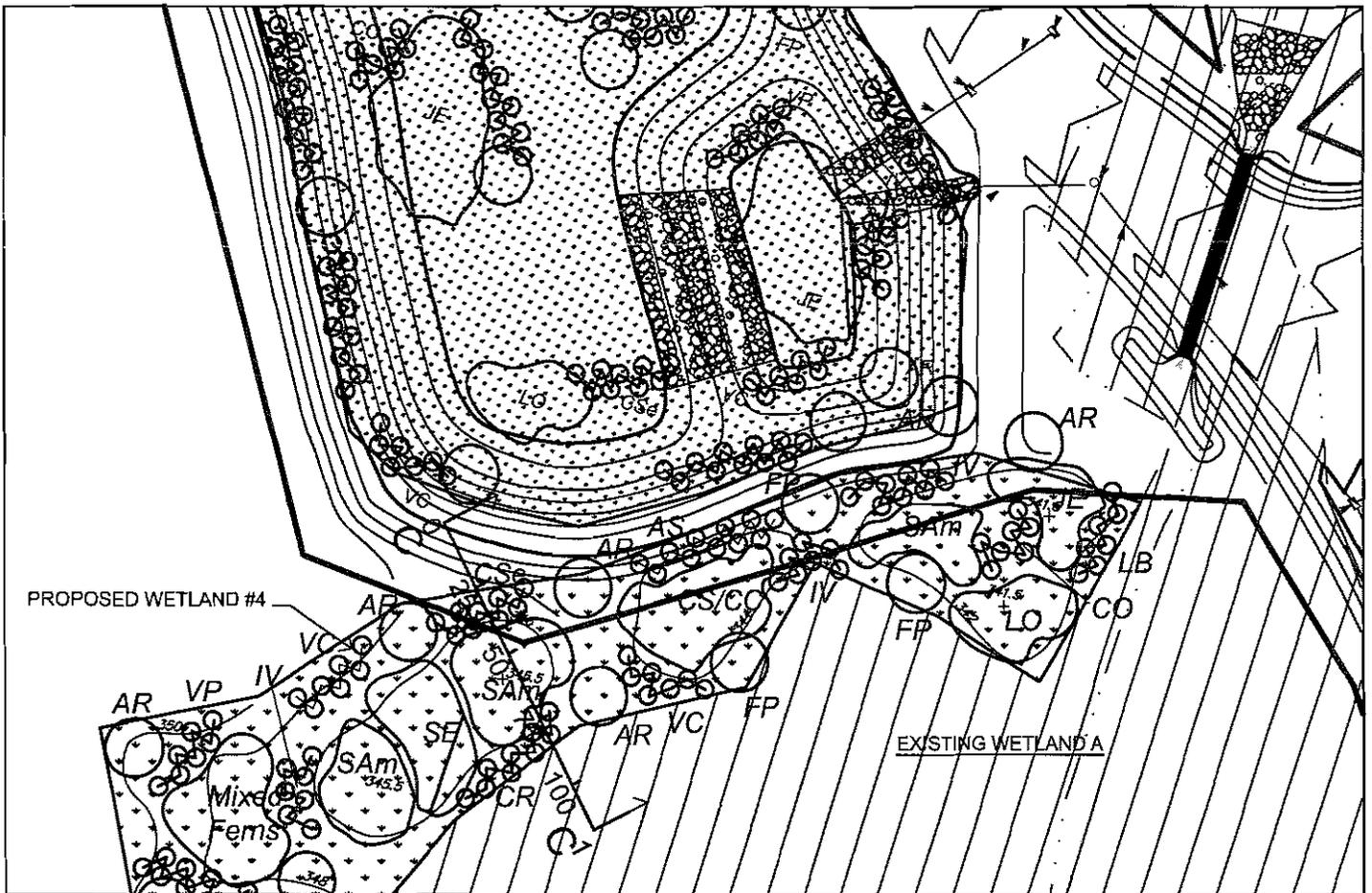
**PROPOSED WETLAND 1 - CROSS SECTION A - A 1**





PROPOSED WETLAND 3 - CROSS SECTION B - B<sup>1</sup>

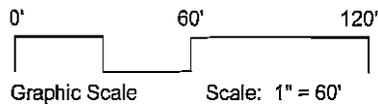




**PROPOSED WETLAND 4 - CROSS SECTION C - C1**

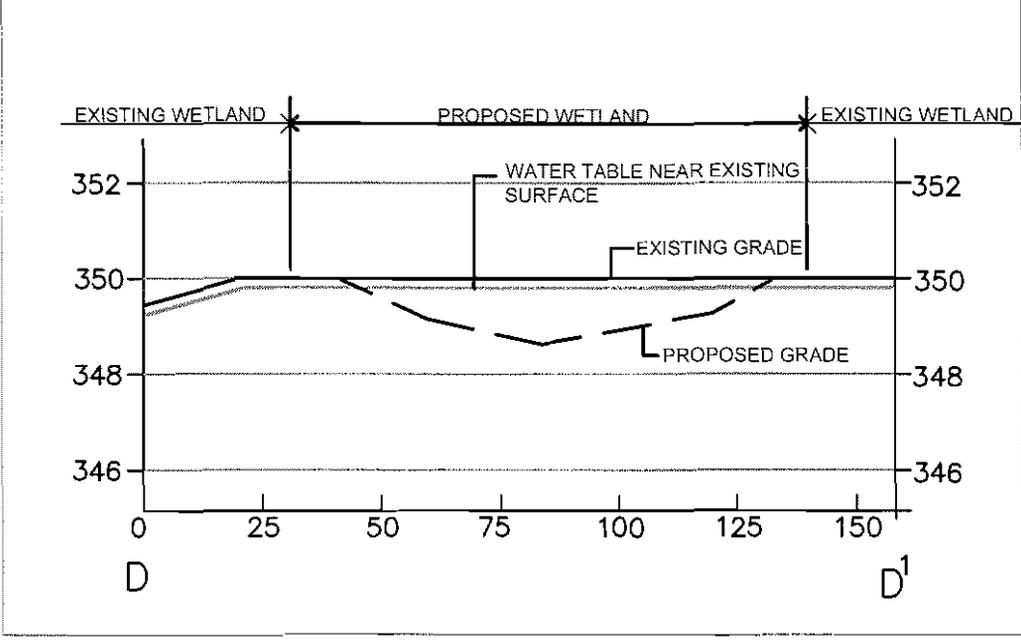
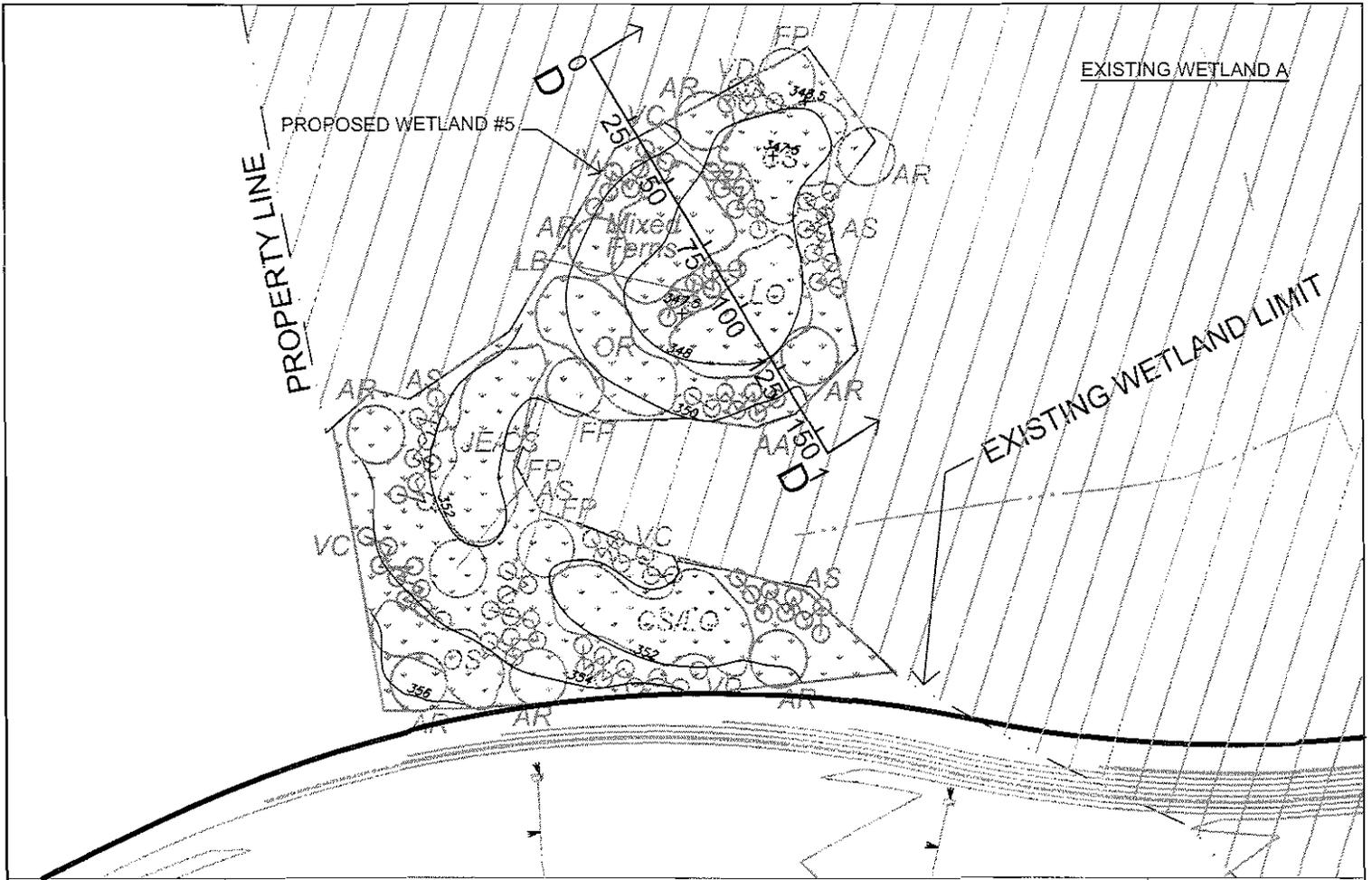
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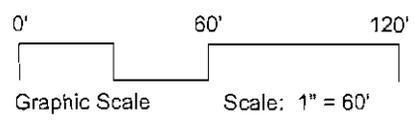


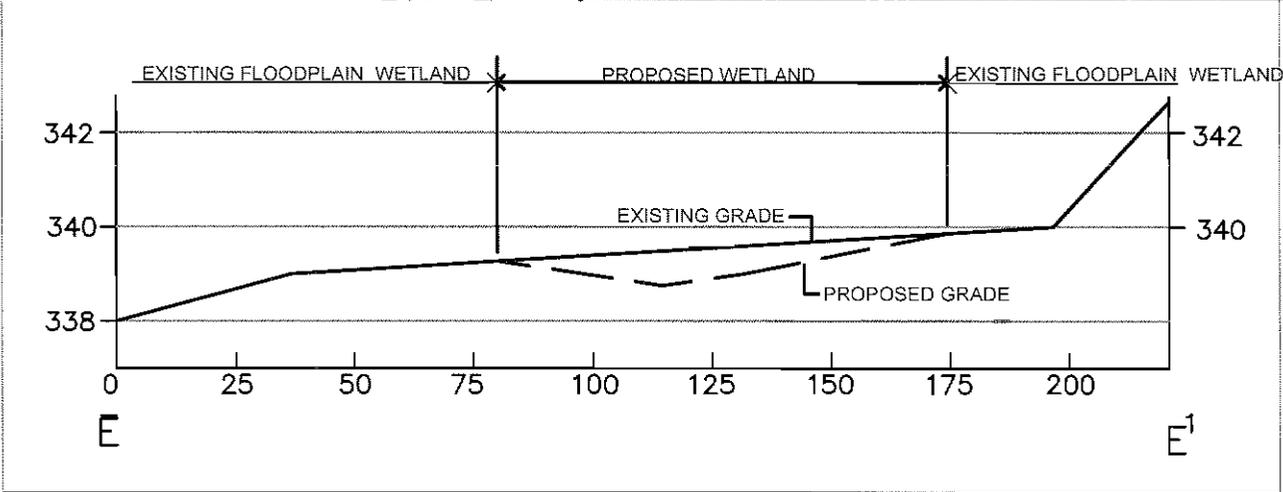
Wetland Impacts and Mitigation Areas  
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PROPOSED WETLAND 5 - CROSS SECTION D - D 1

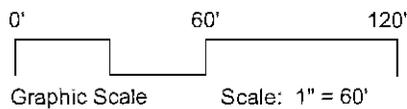




PROPOSED WETLAND 6 - CROSS SECTION E - E 1

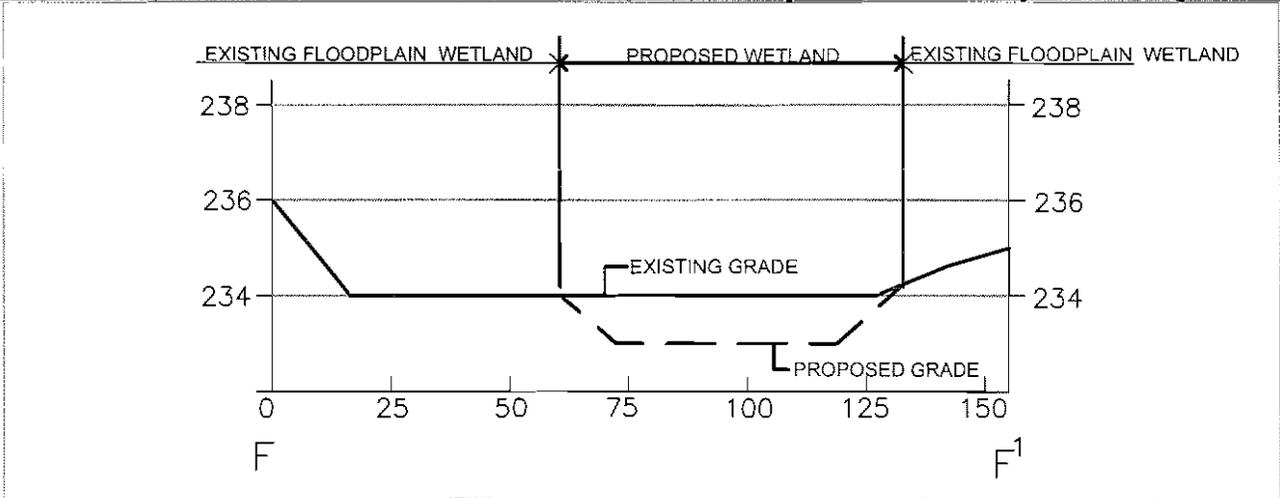
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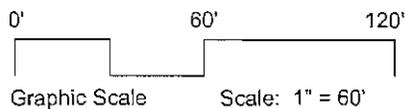


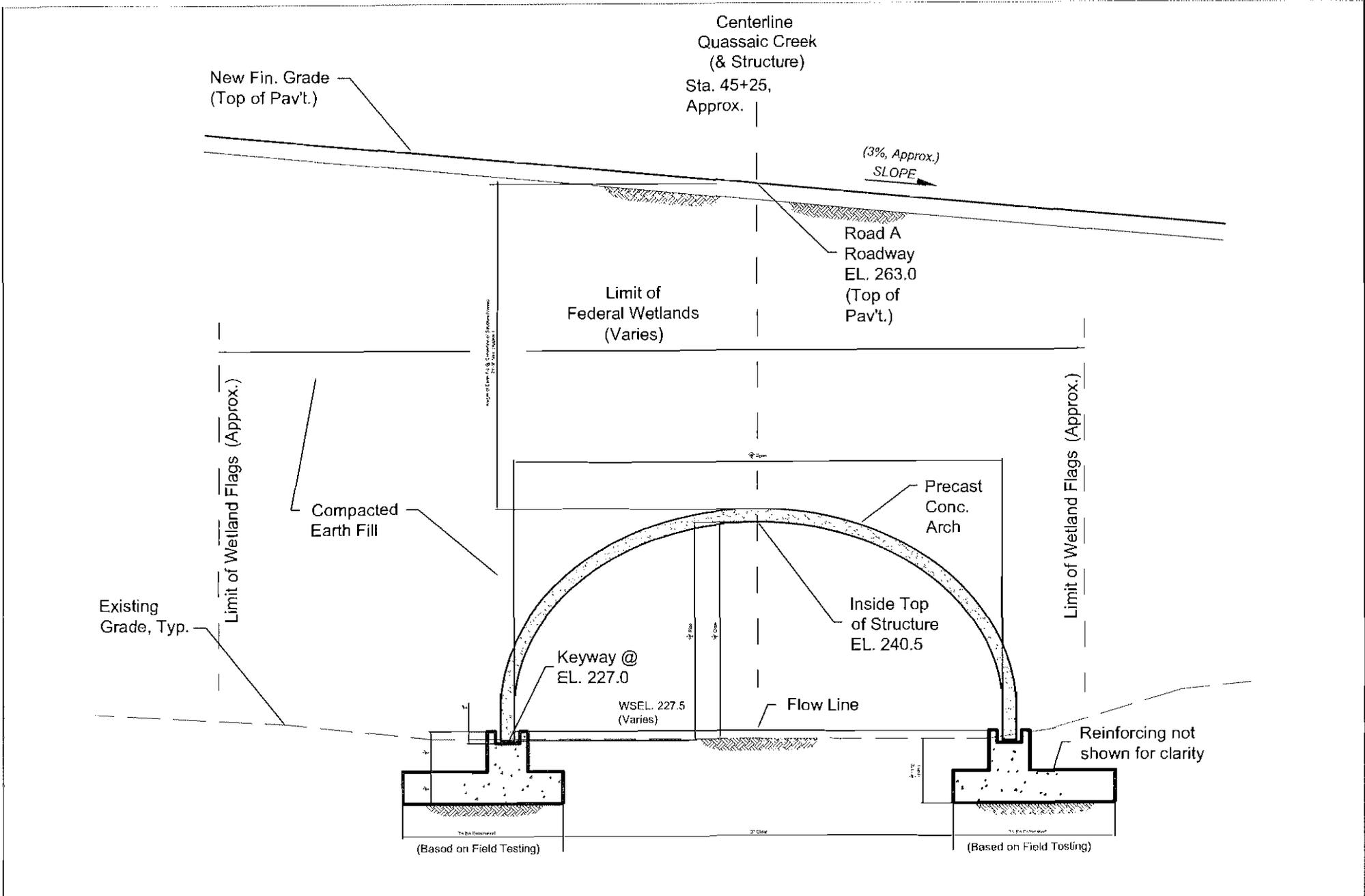
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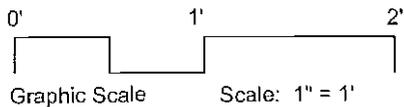
**PROPOSED WETLAND 6 - CROSS SECTION F - F 1**





**Quassaic Creek  
Crossing**

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