



**DEPARTMENT OF THE ARMY
U.S. ARMY ENGINEER DISTRICT, MOBILE DISTRICT
P.O. BOX 2288
MOBILE, ALABAMA 36628-0001**

REPLY TO
ATTENTION OF:

**CESAM-RD-C
PUBLIC NOTICE NO. SAM-2016-00224-MJF**

June 5, 2019

**JOINT PUBLIC NOTICE SAM-2016-00224-MJF
U.S. ARMY CORPS OF ENGINEERS**

**MISSISSIPPI DEPARTMENT OF ENVIRONMENTAL QUALITY
OFFICE OF POLLUTION CONTROL**

**MISSISSIPPI DEPARTMENT OF MARINE RESOURCES
DMR-160153**

**PROPOSED IMPACTS ASSOCIATED WITH THE CONSTRUCTION OF A SINGLE-FAMILY
RESIDENTIAL DEVELOPMENT KNOWN AS EMERALD LAKE SUBDIVISION, WETLANDS
ASSOCIATED WITH HOWARD CREEK, BILOXI, JACKSON COUNTY, MISSISSIPPI**

TO WHOM IT MAY CONCERN:

This District has received an application for a Department of the Army permit pursuant to Section 404 of the Clean Water Act. Please communicate this information to interested parties.

**APPLICANT: Merrill Land Company
Attention: Mr. J. Collier Merrill
228 South Palafox Place, 11th Floor
Pensacola, Florida 32502**

**AGENT: Sanders Environmental LLC
Attention: Mr. Dana R. Sanders, Jr.
19032 Old Port Gibson Road
Utica, Mississippi 39175**

LOCATION: In wetlands associated with Howard Creek, west of Hudson-Krohn Road, Latitude 30.485352 North, Longitude -88.942072 West, Section 36, Township 6 South, Range 10 West, Biloxi, Harrison County, Mississippi.

WORK: The applicant proposes to place fill material in 0.96 acre of moderate quality (as determined by M-WRAP) wet pine savannah wetlands to complete a 136-lot, single-family residential subdivision. The subject property is a 96.70-acre parcel containing approximately 36.88 acres of jurisdictional wetlands. The subdivision was initiated prior to 2016 and a Nationwide Permit (NWP) was issued for the construction of a road crossing and fill for several lots. A total of 0.49 acre of wetland fill was authorized. Streets and utilities were installed as well. The applicant proposes to develop an additional 5 lots of the larger 136-lot subdivision.

Best management practices would be implemented during and following all construction activities. Silt fences and other appropriate materials would be installed to block erosion and sedimentation in wetlands outside the project area. Disturbed surfaces would be planted to grass mixtures, except areas to be sodded. Planting and/or sodding would be undertaken as soon as possible after preparation of the project area. Stormwater management would be through creation of ditches and swales, and the drainage would be tied to the existing drainage system installed for the rest of the subdivision. The stormwater would then be conveyed to a large, existing detention basin.

EXISTING CONDITIONS: The project site is partially forested with the majority cleared from work completed in uplands and under the previously authorized NWP. The project site is bordered by Hudson-Krohn Road to the east, undeveloped acreage to the west, an existing dirt pit site to the north and an existing subdivision to the south. The site had been occupied by several dwellings including three single residence homes and barns. Most of the nonwetland acreage on the parcel was improved pasture for horses. There is an 11.86-acre lake on the property located which is located on the north portion of the property. Dominant species in the tree stratum include slash pine, Drummond red maple, black gum and sweetbay. The sapling/shrub stratum is dominated by black gum, redbay, red maple, ti-ti, sweetbay, inkberry and gallberry. Species dominant in the herbaceous stratum include yellow-eyed grass, ti-ti, and green pitcher plant. Soils consist of Ocilla, Ponzer/Smithton, and Plummer.

PROJECT PURPOSE: As stated by the applicant, "To complete Emerald Lake Subdivision by constructing houses on 12 single family residence lots." The U.S. Army Corps of Engineers (USACE) initially determined the basic project purpose is a single-family, 136-lot subdivision, and would not be considered a water dependent activity. Additional review will be performed by the USACE and cooperating agencies.

ALTERNATIVES: The USACE's initial review of alternatives submitted by the applicant consists of the No Action Alternative. The 96.7-acre parcel contains 36.88 acres of jurisdictional wetlands. The applicant designed the proposed project to make maximum use of all on-site uplands having initially impacted 0.49 acre and the proposed 0.96 acre. All remaining wetlands on the property would be avoided. A large portion of the avoided wetlands are high-quality bottomland hardwoods. Additional review of alternatives will be performed by the USACE and cooperating agencies.

MITIGATION: Compensatory mitigation is required for the loss of 0.96 acre of moderate quality (based on M-WRAP analysis) wet pine savanna. The applicant is proposing mitigation through the purchase of 2.88 (3:1) mitigation credits from an approved mitigation bank. Additional review of mitigation requirements will be performed by the USACE and cooperating agencies. Final compensatory mitigation will be evaluated by the USACE and cooperating resource agencies throughout the review process for the proposed project.

The applicant has applied for certification from the State of Mississippi in accordance with Section 401(a)(1) of the Clean Water Act and upon completion of the required advertising; a determination relative to certification will be made.

The applicant has applied for coastal zone consistency from the State of Mississippi Department of Marine Resources (MDMR) in accordance with Section 57-15-6 of the Mississippi Code Annotated. The MDMR issued consistency by letter dated January 31, 2019. (DMR-160153).

This public notice is being distributed to all known interested persons in order to assist in developing facts on which a decision by the USACE can be based. For accuracy and completeness of the record, all data in support of or in opposition to the proposed work should be submitted in writing setting forth sufficient detail to furnish a clear understanding of the reasons for support or opposition. 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 benefits, 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, cultural values, fish and wildlife values, protected species, flood hazards, flood plain values, land use, navigation, shoreline erosion and accretion, recreation, water supply and conservation, water quality, energy needs, safety, food production and in general, the needs and welfare of the people.

The USACE 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 USACE 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 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. Any person may request, in writing, within the comment period specified in this notice, that a public hearing be held for consideration of this application. Requests for public hearings shall state with particularity, the reasons for holding a public hearing.

Evaluation of the probable impacts involving deposits of dredged or fill material into waters of the United States will include the application of guidelines established by the Administrator of the U.S. Environmental Protection Agency.

In accordance with Section 106 of the National Historic Preservation Act, and Appendix C of 33 CFR 325, the undertaking defined in this notice is being considered for the potential to effect cultural and historic properties within the permit area. In accordance with Appendix C of 33 CFR Part 325, the USACE has determined that the permit area is the full area of development for the overall project footprint. The National Park Service, National Register of Historic Places (NRHP) database has been consulted. No known archaeological sites are located within or very close to the project area. The proposed project will have **no potential to**

cause effects on cultural resources in the permit area. We are seeking comment from the State Historic Preservation Officer, Federally-recognized American Indian tribes, local historical societies, museums, universities, the National Park Service, and the general public regarding the existence or the potential for existence of significant cultural and historic properties which may be affected by the work. A Phase I cultural resources survey dated April 2016, was conducted on the subject property and submitted to the MDAH for review and comment. By letter dated May 4, 2016, the MDAH stated that “no cultural resources eligible for listing in the National Register of Historic Places are likely to be affected by the project; and as such, we have no objections with the undertaking.” (MDAH Project Log #04-057-16)

Preliminary review of this application and the U.S. Department of the Interior List of Endangered and Threatened Wildlife and Plants indicated the following terrestrial species may be present within the affected watershed: the West Indian Manatee (E) (*Trichechus manatus*), the Mississippi Sandhill Crane (E) (*Grus Canadensis pulla*), the Red Cockaded Woodpecker (E) (*Picoides borealis*), the Wood Stork (T) (*Mycteria Americana*), the Alabama Red-Bellied Turtle (E) (*Pseudemys alabamensis*), the Black Pine Snake (T) (*Pituophis melanoleucus lodingi*), the gopher tortoise (T) (*Gopherus polypemus*), the Mississippi Gopher Frog (E) (*Rana sevosa*) and the Louisiana Quillwort (E) (*Isoetes louisianensis*). No listed critical habitat is located on or near the project site. Preliminary review of this application and the U.S. Department of the Interior List of Endangered and Threatened Wildlife and Plants for the 12-HUC watershed suggest that the proposed activity will have **no effect** on listed endangered or threatened species or critical habitat. This determination is being coordinated with the U.S. Fish and Wildlife Service via this public notice.

Correspondence concerning this Public Notice should refer to Public Notice Number **SAM-2016-00224-MJF**, and should be directed to the District Engineer, Mobile District, Biloxi Field Office, Attention: **Ms. Maryellen Farmer**, 1141 Bayview Avenue, Suite 104, Biloxi, Mississippi 39530, with a copy to the Mississippi Department of Environmental Quality, Office of Pollution Control, **Attention: Ms. Florance Bass, P.E.**, Post Office Box 2261, Jackson, Mississippi 39225.

All Comments should be received no later than 30 days from the date of this Public Notice. If you have any questions concerning this publication, you may contact the project manager at (228) 523-4116, or email at maryellen.j.farmer@usace.army.mil. Please refer to the above Public Notice number.

For additional information about our Regulatory Program, please visit our web site at www.sam.usace.army.mil/Missions/Regulatory.aspx.

MOBILE DISTRICT
U.S. Army Corps of Engineers

Enclosures

The map displays the Cedar Lake area in Mississippi. Key features include:

- Roads:** Highway 67 (labeled 'Old Highway 67' and 'Old MS-67'), Highway 15, Highway 41, and various local roads such as Lorraine Rd, Jim Byrd Rd, Victory Ln, Jim Byrd Rd, Hal'ee Dr, Larkin Dr, Rocky Mountain Dr, Cedar Lake Rd, Tommy Munro Dr, Cedar Lake Rd, Popp's Ferry Rd, W Gay Rd, Hickman Rd, Old Highway 15, and Airport Rd.
- Water Bodies:** Panther Creek and the Suncoast Waterway.
- Landmarks:** The Suncoast Country Club is located in the bottom left corner.
- Site:** A specific location is marked with a house icon and labeled 'SITE'.
- Scale:** A scale bar at the bottom right indicates 2500 feet and 800 meters.
- Copyright:** © 2015 HERE

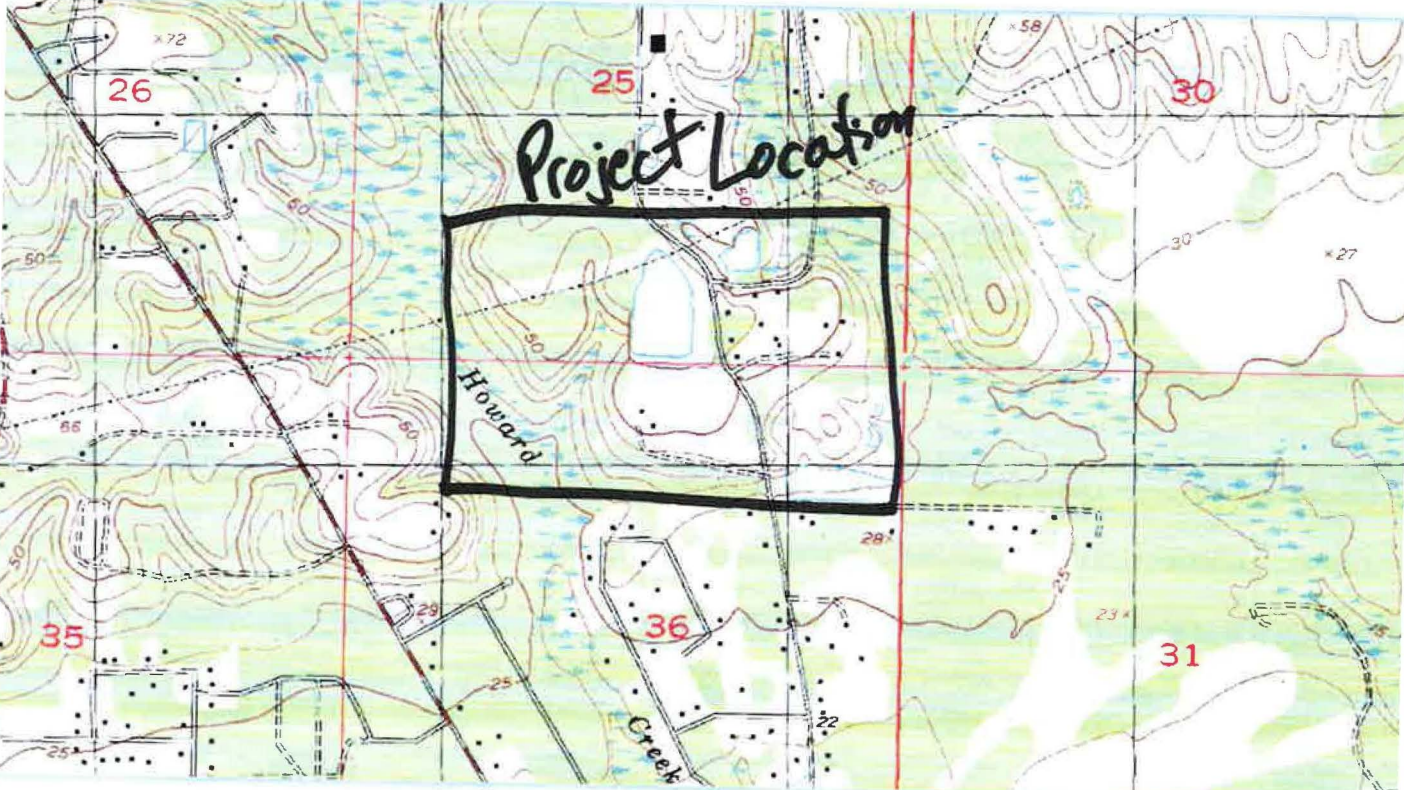
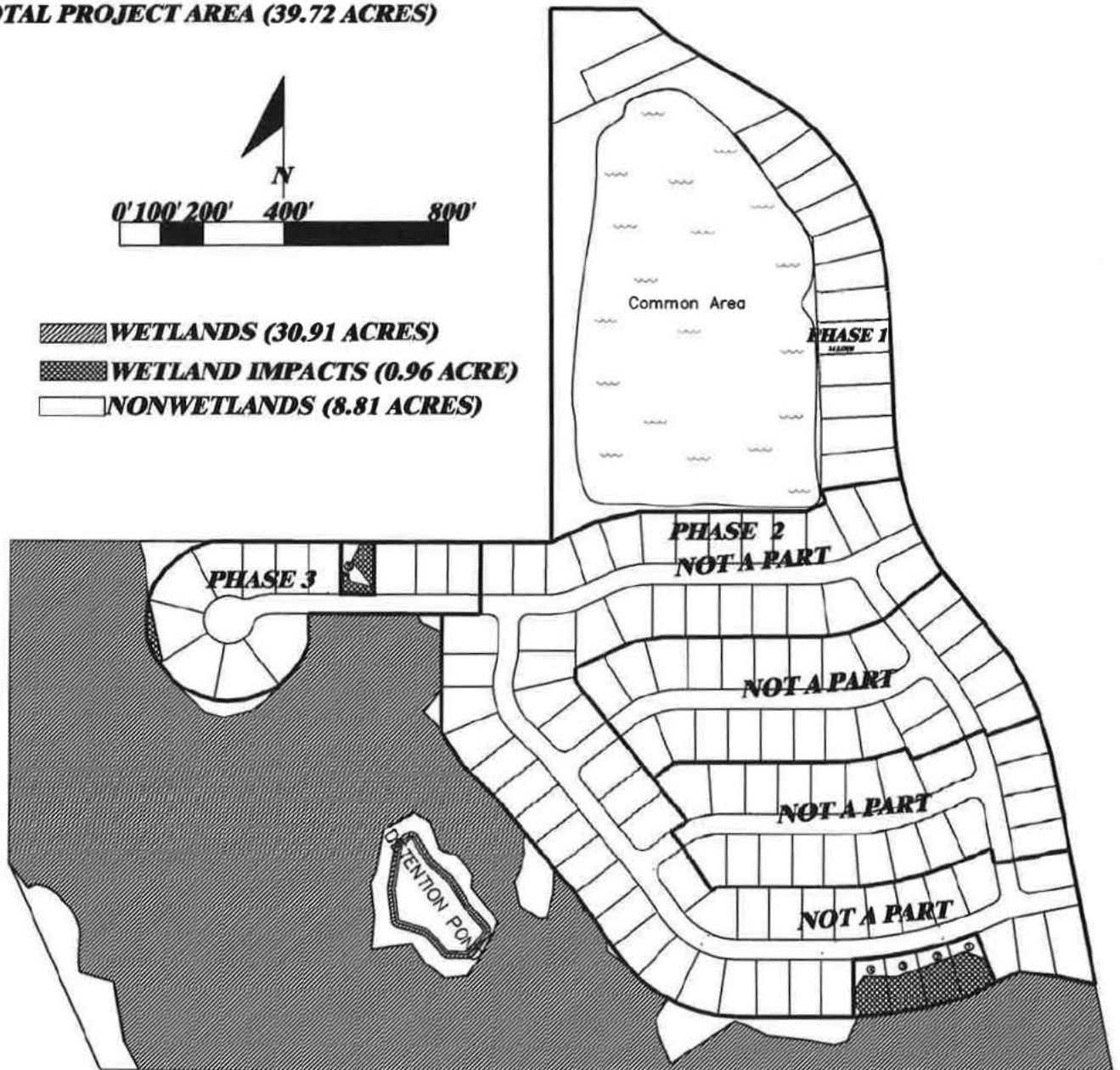
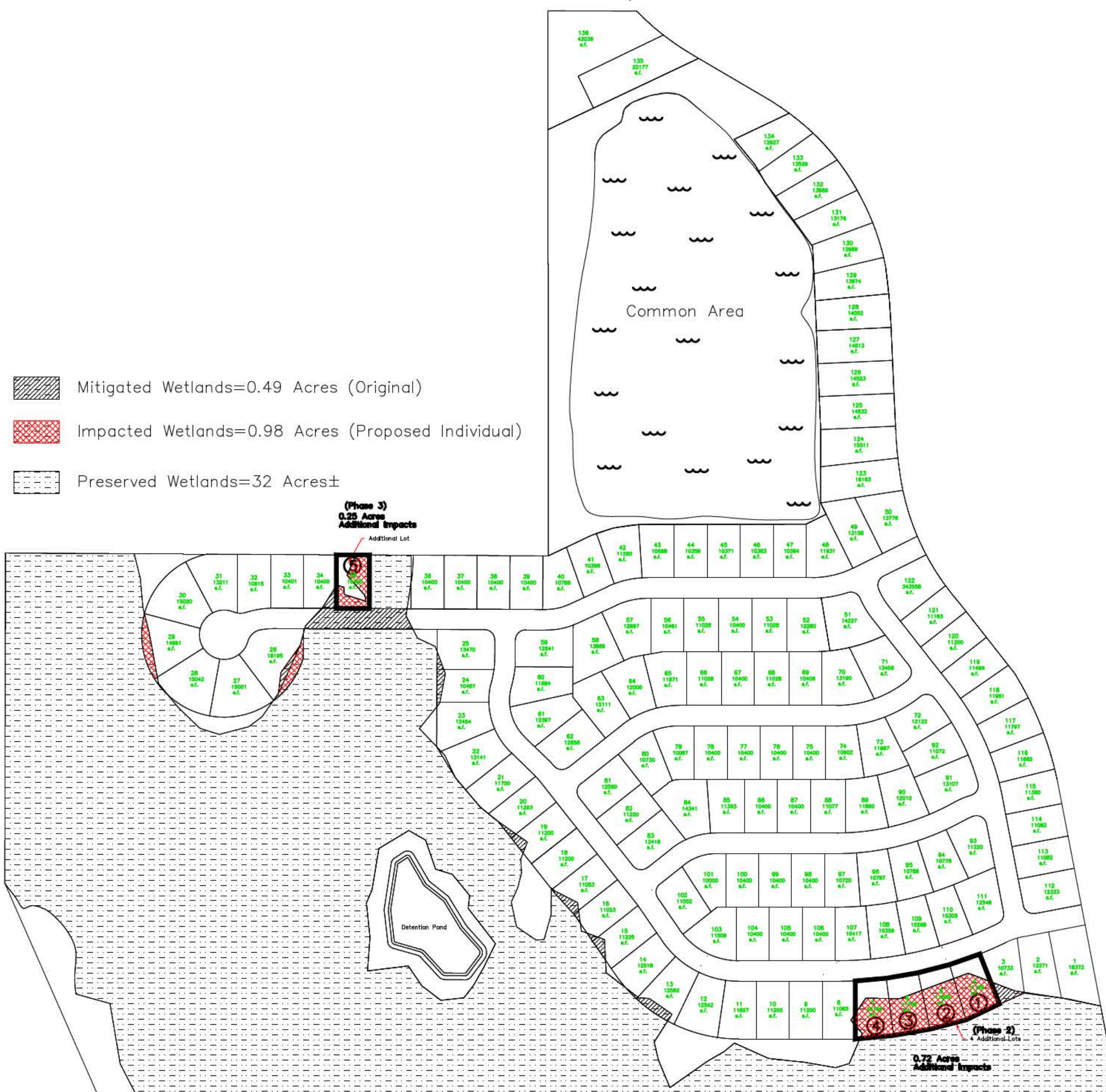


FIGURE 2. PROPOSED PLANVIEW FOR COMPLETION OF EMERALD LAKE SUBDIVISION

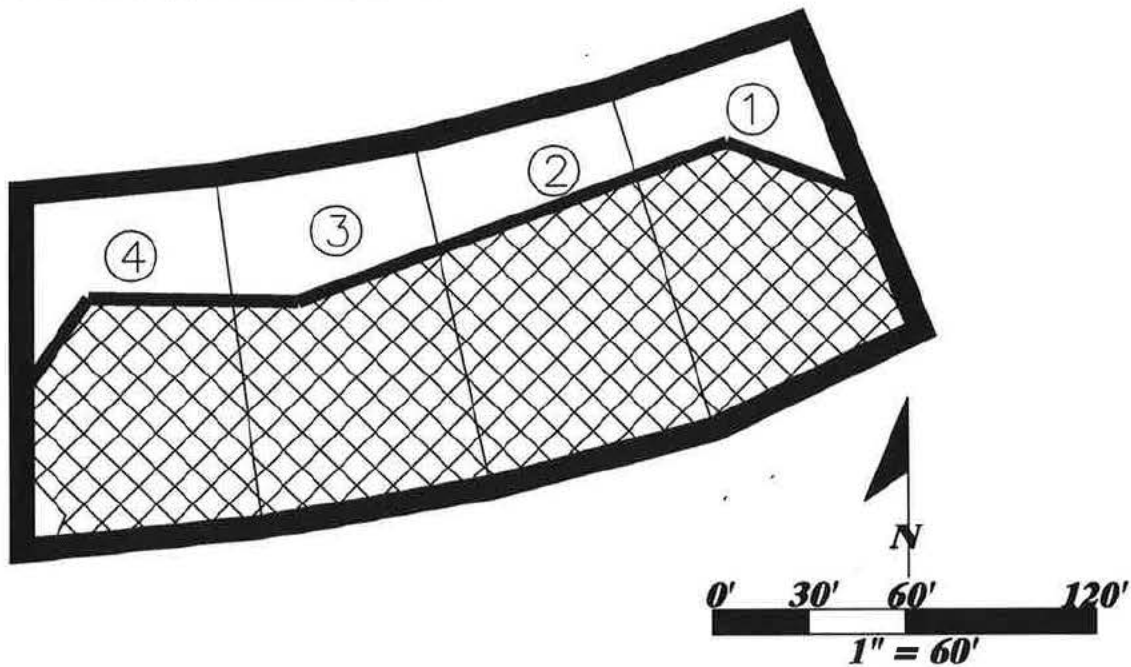
TOTAL PROJECT AREA (39.72 ACRES)





**FIGURE 2A. PROPOSED WETLAND IMPACTS ON PHASE 3
OF EMERALD LAKE SUBDIVISION**

TOTAL AREA = 1.07 ACRES



WETLANDS = 0.73 ACRE

WETLAND IMPACTS = 0.73 ACRE

NONWETLANDS = 0.34 ACRE

**FIGURE 2B. PROPOSED WETLAND IMPACTS ON PHASE 3
OF EMERALD LAKE SUBDIVISION**

TOTAL AREA = 4.76 ACRES

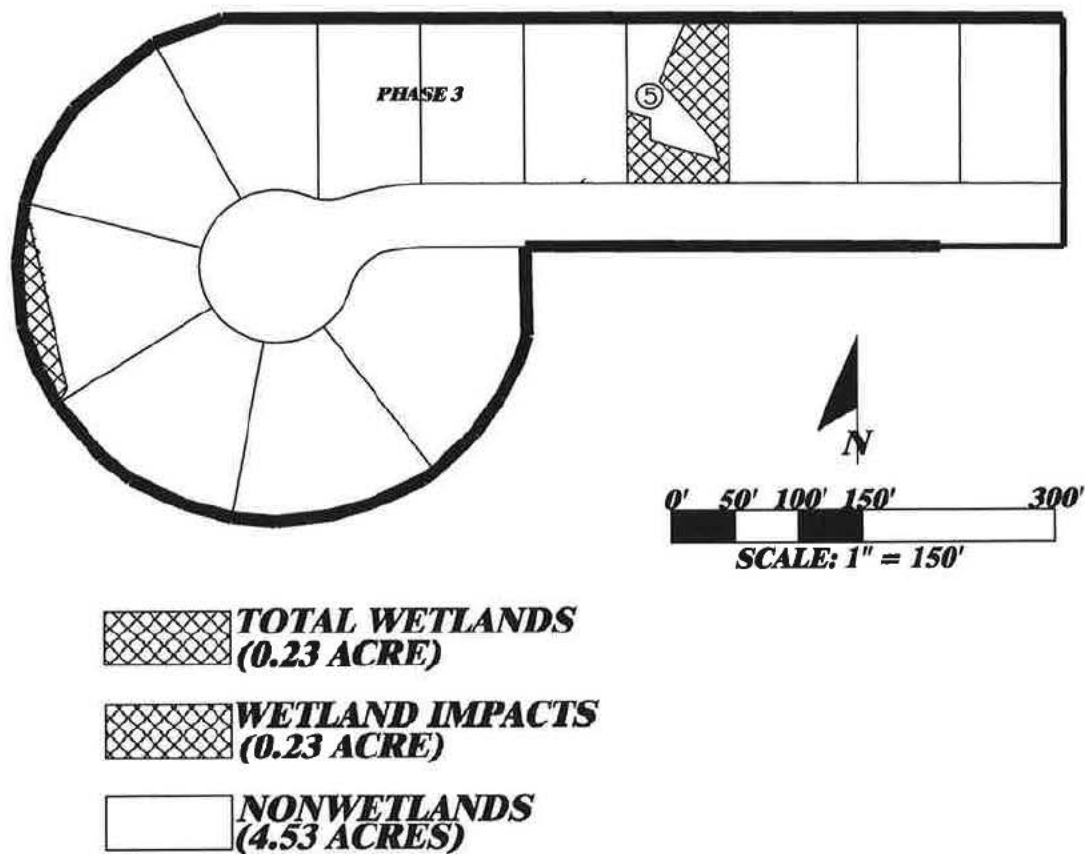


FIGURE 3. TYPICAL LOT LAY-OUT

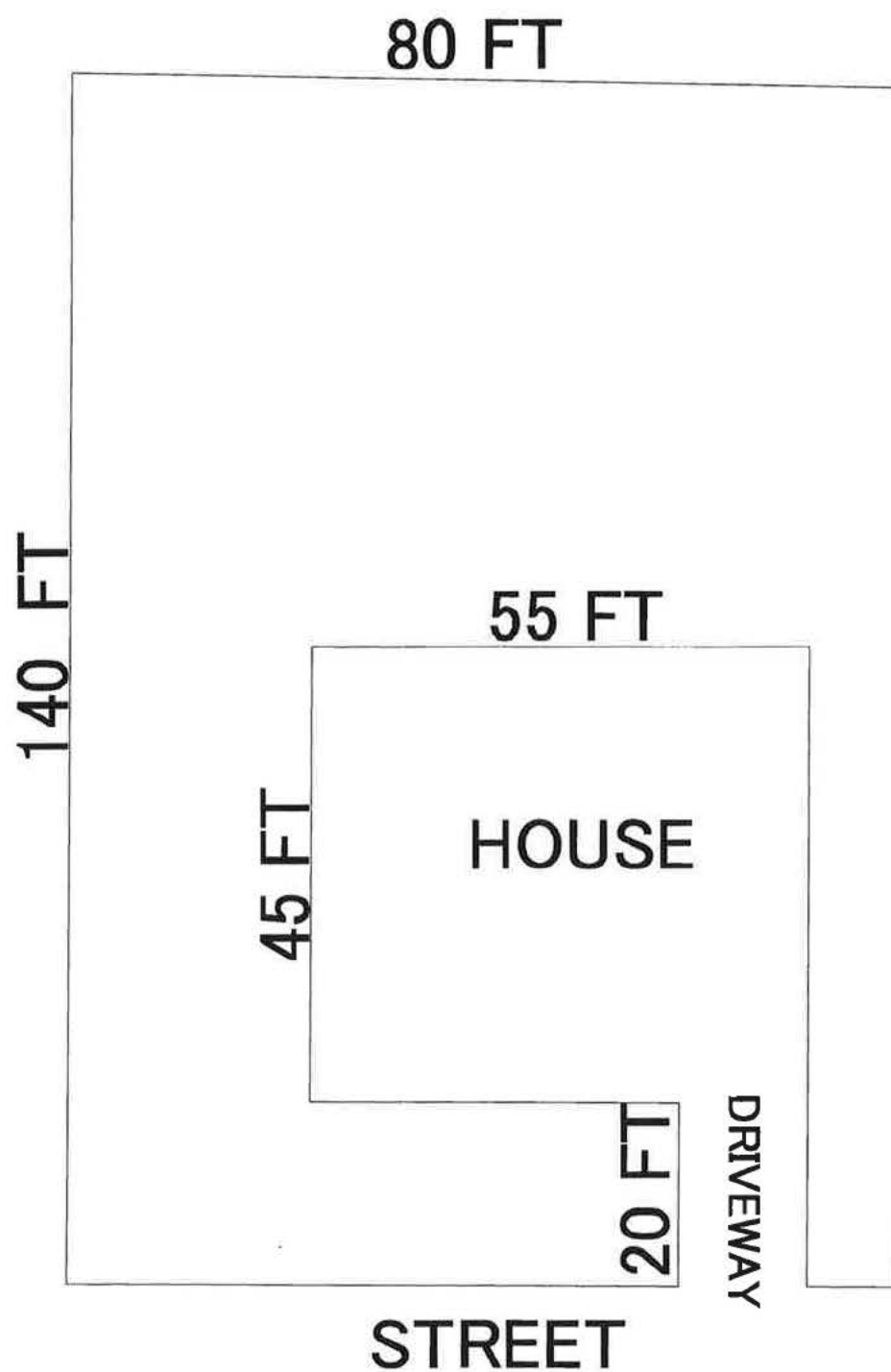


FIGURE 4. TYPICAL CROSS-SECTION OF FILL IN REAR OF LOT (N.T.S.)

